

GENERAL BYLAWS OF THE TOWN OF NORTH ANDOVER

(ADOPTED APRIL 23, 1979, AS AMENDED)



SPECIAL NOTES

All references in chapter histories to the General Bylaws are in relation to the compilation of bylaws of the Town of North Andover adopted 4-23-79 Annual Town Meeting, Article 13.

This compilation represents the official version of the Town of North Andover General Bylaws, except that the following Table of Contents is unofficial, and the reader is advised to thoroughly review the individual Chapters and Sections contained herein)

(This Revision Updates all Town Meeting Actions as of October 2016)

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DIVISION 1

TOWN MEETINGS ENACTMENTS

PART I

ADMINISTRATIVE LEGISLATION

SPECIAL NOTE

All references in chapter histories to the General Bylaws are in relation to the compilation of bylaws of the Town of North Andover adopted 4-23-79 Annual Town Meeting, Article 13.

(This Revision Updates all Town Meeting Actions through April 2013)

CHAPTER 1

GENERAL PROVISIONS

- § 1-1. Adoption date.
- § 1-2. Repealer.
- § 1-3. Amendments.
- § 1-4. Severability.
- § 1-5. Violations and penalties.
- § 1-6. Noncriminal disposition of violations.

[HISTORY: Adopted by the Town of North Andover as Ch. 1 of the General Bylaws. Amendments noted where applicable.]

§ 1.1. Adoption Date

The bylaws contained herein shall be in force and effect on and after May 29, 1979.

§ 1.2. Repealer

A. All bylaws or parts of bylaws heretofore adopted which are inconsistent with the provisions of these bylaws are hereby repealed and annulled, but the provisions of the foregoing bylaws so far as they are the same as the provisions of bylaws heretofore adopted shall be construed as a continuation thereof and not as new enactments.

B. The repeal of a bylaw heretofore adopted shall not affect any act done, ratified or confirmed to any right accrued or established or any action, suit or proceeding commenced or had in civil case, nor affect any punishment, penalty or forfeiture incurred under such bylaw.

§ 1.3. Amendments

These bylaws may be amended or repealed at any Town Meeting provided that an Article or Articles for that purpose have been inserted in the warrant of said meeting.

§ 1.4. Severability

If any provision of these bylaws shall be held invalid, the remainder shall not be affected thereby.

§ **1.5. Violations and Penalties**

Any person violating any bylaws or regulation of the town shall, in cases not otherwise provided for, be punished therefor by a fine of fifty dollars (\$50) for each such offense.

§ **1.6. Noncriminal Disposition of Violations**

Violations of any provisions of these bylaws or rules and regulations of any town department or board may be handled as a noncriminal offense in accordance with the provisions of Massachusetts General Laws C.40, § 21D.

[Amended Article 18 1997 Annual Town Meeting - Attorney General Approval 8-13-1997]

Without intending to limit the generality of the foregoing, the following Board of Health Regulations and penalties therefor may be enforced as a non-criminal offense in accordance with G.L. Ch. 40, S. 21D. The penalties set forth herein shall apply to each separate offense or violation of the regulations. The Board of Health shall determine the disposition of all complaints or requests for enforcement made pursuant to this By-law. The Board of Health or its specific designee may enforce a decision of the Board regarding the non-criminal disposition of a complaint or request for enforcement.

APPLICABLE BOARD OF HEALTH REGULATIONS

	<u>Up To</u>
Regulations for the Control of Waste Disposal Traffic	\$1,000.00
Article X, Minimum Sanitation Standards for Food Service Establishments	\$ 300.00
Tobacco Control Regulations	
Individual	\$ 25.00
Vendor or Food Establishment, first offense	\$ 50.00
Second offense	\$ 100.00
Third and Subsequent offenses	\$ 250.00
Dumpster Regulations	\$ 50.00
Regulations for Sewer Tie-in	\$ 200.00
Rules and Regulations Governing the Practice of Massage and the Conduct of Establishments for the Giving of Massage, Vapor, Pool, Shower, or other Baths in the Town of North Andover	
North Andover Board of Health Regulations for Watershed Pumping	\$ 200.00
Regulations for Suntanning Establishments	\$ 300.00
Minimum Requirements for the Subsurface Disposal of Sanitary Sewage	\$ 500.00
Regulations for the Use of Recombinant DNA Molecule Technology	\$ 500.00

Chapter 3

ACCOUNTANT, TOWN

§ 3.1. Duties.

[HISTORY: Adopted by the Town of North Andover as Chapter 4, §4.8 of the General Bylaws. Amendments noted where applicable.]

§ 3.1. Duties.

It shall be the duty of the Town Accountant to inspect all bills presented against the town; to see that they have the approval of the officer, board or committee contracting the same, and are in proper form; to indicate the account to which they are chargeable; and, if there are funds, to transmit said bill with his certificate to the Town Manager, who shall draw his warrant on the Town Treasurer authorizing payment boards, and committees receiving and expending money; to investigate the conditions of all funds and trust funds held for the benefit of the town. He shall verify the amount of funds in the hands of the town officers, boards and by personal applications at banks of deposit, shall ascertain the amounts held therein to the credit of the town. He shall report to the town in detail under each department all receipts and expenditures by the town for the previous financial year.

Chapter 7

CIVIC HOLIDAY CELEBRATION COMMITTEE

§ 7.1. **Annual appointment; membership.**

§ 7.2. **Responsibility.**

[HISTORY: Adopted by the Town of North Andover as Chapter 3 § 3.11 of the General Bylaws. Amendments noted where applicable.]

§ 7.1. **Annual Appointment; membership**

The Selectmen shall annually appoint a Committee of nine (9) voters of the town, to be known as the “Civic Holiday Celebration Committee,” each of whom shall hold office for the term of one (1) year, or until his successor shall have been duly appointed and qualified. The unexpired term of any member of said Committee shall be filled by the Selectmen.

§ 7.2. **Responsibility**

Said Committee shall expend all or part of such funds as the town may appropriate therefor for the public observance and celebration of the Fourth of July and of such other legal holidays or days of historic interest to the town, as the Selectmen may from time to time designate.

CHAPTER 8

Community Preservation Committee

- § 8.1. Establishment.
- § 8.2. Duties.
- § 8.3. Requirement for a quorum and cost estimates.
- § 8.4. Amendments.
- § 8.5. Severability.

[HISTORY: Adopted by the Town of North Andover as Chapter 8 of the General Bylaws – Special Town Meeting January 29, 2001 – Approved by Attorney General. Amendments noted where applicable.]

§ 8.1. Establishment.

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Historical Commission as designated by the Commission for a term of three years.

One member of the Planning Board as designated by the Board for a term of three years.

One member of the Recreation Council as designated by the Council for an initial term of one year and thereafter for a term of three years.

One member of the Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three years.

One member of the Open Space Committee as designated by the Committee for an initial term of one year and thereafter for a term of three years.

Three members, who are residents of the Town, to be appointed by the Board of Selectmen, one member to be appointed for a term of one year and thereafter for a term of three years and two members to be appointed for a term of two years and there after for a term of three years.

Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this Chapter be no longer in existence for what ever reason, the appointment authority for that Commission, Board, or Council shall become the responsibility of the Board of Selectmen.

§ 8.2. Duties.

(1). The Community Preservation Committee shall, at least annually, study the needs, possibilities and resources of the town regarding community preservation. The

committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Council and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2). The Community Preservation Committee shall, at least annually, make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the Town Meeting shall include their anticipated costs.

(3). The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

§ **8.3. Requirement for a quorum and cost estimates.**

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by a majority vote of the entire committee membership.

§ **8.4. Amendments.**

This by-law may be amended from time to time by a majority vote of the Town Meeting, provided, however, that the amendments would not cause a conflict to occur with Massachusetts General Law, Chapter 44B.

§ **8.5. Severability.**

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

Chapter 11

COUNCIL ON THE AGING

§ 11.1. **Establishment.**

§ 11.2. **Duties and responsibilities.**

[HISTORY: Adopted by the Town of North Andover as Ch. 3, Sec. 3.4 of the General Bylaws; amended 4-27-85 Annual Town Meeting, Article 58 Subsequent amendments noted where applicable.]

§ 11.1. **Establishment.**

There is hereby established a local Council on Aging, consisting of eleven (**11**) voting members. Council members shall be appointed by the Selectmen for interested and representative groups in the community upon consideration of recommendation by the existing Council.

§ 11.2. **Duties and responsibilities.**

The Council shall be responsible to the Selectmen, and its members shall serve without compensation and within the limits of available funds it may appoint such employees as it may require. It shall be the duty of the Council to oversee the operation of the senior center and to carry out programs and services designed to meet the needs of the elderly in coordination with appropriate local, state and federal agencies.

Chapter 13

COUNSEL, TOWN

§ 13-1. **Appointment; Compensation; Vacancies.**

§ 13-2. **Duties and Responsibilities.**

[HISTORY: Adopted by the Town of North Andover as Ch 3, Sec 3.7 of the General Bylaws; Amended 4-25-81 Annual Town Meeting, Art 32, 4-28-84 Annual Town Meeting, Article 87. Subsequent amendments noted where applicable.]

§ 13-1. **Appointment; Compensation; Vacancies.**

The Board of Selectmen shall annually in June appoint and, subject to appropriation therefor, fix the compensation of an attorney-at-law who shall be a member in good standing of the bar of the commonwealth, to serve as Town Counsel at the pleasure of the appointing committee. The Board of Selectmen shall likewise fill any vacancy in said office for the unexpired term thereof. The Selectmen may employ special counsel whenever, in their judgment, the necessity thereof arises.

§ 13.2. **Duties and Responsibilities.**

The Town Counsel shall, subject to the direction of the Selectmen, conduct the prosecution, defense or compromise of legal proceedings to which the town is a party and the prosecution or defense, as the case may be, of legal proceedings by or against any town officer, board or committee. He shall prepare legal instruments to which the town is a party or in which any right or interest is involved, shall advise any town officer, board or committee upon legal matters and proceedings affecting the performance of his or its official duties, and shall perform such other duties as may be imposed upon him by these bylaws or vote of the town, and as further set forth in a memorandum of agreement to be established by the Board of Selectmen with the advice of the appointing committee.

Chapter 17

FINANCE

[HISTORY: Adopted by the Town of North Andover as Ch. 4 of General Bylaws. Amendments noted where applicable.]

- § 17-1. Financial Year.
- § 17-2. Warrant for Payments.
- § 17-3. Promissory Notes.
- § 17-4. Financial Reports.
- § 17-5. Deposit of Receipts.
- § 17-6. Surety Bond Retirement.
- § 17-7. Conflict of Interest.
- § 17-8. Water/Sewer Bills.
- § 17-9. Revenue/Fixed Costs Review Committee

§ 17-1. Financial Year

The financial year of the town shall begin with the first day of July and end with the 30th day of the following June.

§ 17-2. Warrant for Payments

No money shall be paid from the Town Treasury, except the state and county taxes and bank discount, without a warrant therefor signed by the Selectmen.

§ 17-3. Promissory Notes

All promissory notes of the town shall be signed by the Treasurer and countersigned by the Selectmen.

§ 17-4. Financial Reports

All town officers, boards, and committees, who in any way receive or expend money belonging to the town shall keep a record of their official acts, and an account of their receipts and expenditures; they shall make an annual report to the town in season to be audited and incorporated into the annual town report.

§ 17-5. Deposit of Receipts

All town officers, boards and committees, who shall receive money in behalf of the town, shall pay to the Treasurer, monthly and oftener if so required by the Selectmen, all money so received. All other persons who shall have in their possession money belonging to the town shall pay the same forthwith to the Town Treasurer.

§ **17-6. Surety Bond Retirement**

The Collector or other official with the duty of collecting and receiving money due to the town shall give a bond in a penal sum and with sureties approved by the Board of Selectmen.

§ **17-7. Conflict of Interest**

No officer, board or committee of the town shall have any pecuniary interest, either direct or indirect, personally or through another person, in any loan, contract or employment of any sort made, by, with or for that department to which his or its duties pertain. All contracts or employment made in violation of the bylaw shall be void as to the town, and no bills therefor shall be approved, audited or paid.

§ **17-8. Water/Sewer Bills**

[Adopted: ATM 5-7-90, Article 22] [Amended Article 18 1998 Annual Town Meeting – Attorney General Approval October 20, 1998]

Water/sewer bills will be issued on a quarterly basis and are due and payable on or before thirty (30) days from the billing date (date of postmark). Payments are considered made when received by the Collector. Any unpaid bills will be reflected as arrears on the following bill cycle, with interest. Any payments received will be applied to interest and charges first, then the arrears portion, with the balance being applied to the current bill. A penalty of 14% interest per annum on the current water and sewer bill will accrue on overdue payments from the due date until payment is made. Fourteen (14) days after the due date of the fourth quarter bill, a demand bill will be issued for the balance plus interest plus \$5.00 fee. This will be due fourteen days after mailing. All bills outstanding for the quarter ended June 30th will be removed from the accounts receivable for water and sewer and applied for collection as part of the property tax, in accordance with M.G.L. Ch.40, s 42A and 42D.

§ **17-9. Revenue/Fixed Costs Review Committee**

[Adopted: ATM 5-11,2004, Article 25, Approved be Attorney General August 19, 2004]

SECTION 9 REVENUE/FIXED COSTS REVIEW COMMITTEE

There is hereby created a committee to advise the Town Manager on revenue, other financial sources and fixed costs projections for town operating budgets. The Committee shall consist of two finance committee members, the School Superintendent, the Director of Finance and Administration, and the Town Accountant. The Town Manager shall serve as an ex-officio member of the committee.

The Committee shall meet within thirty days but no later than December 1st of the issuance of the Board of Selectmen budget policy statement provided for in Chapter 9, Section 2-3 of the Town Charter and shall report to the Town Manager and the Finance Committee their initial estimates for revenues and other financial sources projections and fixed expense estimates for the following fiscal year's annual operating budget within 45 days of the Committee's first meeting. The Committee's report shall identify and describe all revenue and financing sources and anticipated fixed costs and shall provide a written rationale supporting estimates contained therein.

All reports and relevant supporting computer work files issued by this committee shall be made available through the Town of North Andover Web Site in a timely manner that does not interfere with the work of the committee.

The committee may continue to meet after the issuance of the Town Manager's Recommended Budget for the purpose of providing continued advice to the Town Manager, the Board of Selectmen and the Finance Committee regarding revenue and fixed costs projections.

Chapter 20

GAS INSPECTOR

[HISTORY: Adopted by the Town of North Andover as Chapter 3, §3.9 of the General Bylaws. Amendments noted where applicable.]

§ 20-1. Fee Schedule to be Fixed.

§ 20-1. Fee Schedule to be Fixed

[Amended: ATM 4-27-85, Article 55]

The Selectmen shall fix and shall, from time to time by their order, amend a schedule of fees to be charged for gas inspections.

Chapter 22

GREATER LAWRENCE SANITARY DISTRICT **REPRESENTATIVE**

[HISTORY: Adopted by the Town of North Andover as Chapter 3, §3.8 of the General Bylaws. Amendments noted where applicable.]

§ 22-1. Authority to Appoint Certain Members.

§ 22-1. **Authority to Appoint Certain Members**

The Selectmen shall have the power and authority to appoint, by majority vote, one (1) member of the Board of Directors of the Greater Lawrence Sanitary District, established by Chapter 750 of the Acts of 1968.

CHAPTER 28

HOUSING TRUST FUND

HISTORY: Adopted by the Town of North Andover May 2, 1988 Annual Town Meeting Article 31. [Chapter 28 Replaced – Article 33 2006 Annual Town Meeting, Approved by Attorney General][Chapter 28 Amended – Article 39 2007 Annual Town Meeting – Approved by Attorney General October 2, 2007][Amendments noted where applicable.][Chapter 28 Amended by Article 40 2010 ATM-Approved by Attorney General September 9, 2010]

- § 28-1. **Name of the Trust**
- § 28-2. **Purpose**
- § 28-3. **Tenure of Trustees**
- § 28-4. **Meetings of the Trust**
- § 28-5. **Powers of Trustees**
- § 28-6. **Funds Paid to the Trust**
- § 28-7. **Acts of Trustees**
- § 28-8. **Liability**
- § 28-9. **Taxes**
- § 28-10. **Custodian of Funds**
- § 28-11. **Governmental Body**
- § 28-12. **Board of the Town**
- § 28-13. **Duration of the Trust**
- § 28-14. **Recordings**
- § 28-15. **Titles**

- § 28-1. **Name of the Trust**

The trust shall be called the “Town of North Andover Affordable Housing Trust Fund”.

- § 28-2. **Purpose**

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of North Andover for the benefit of low and moderate-income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property held by the Trust and the net earnings thereof shall be used exclusively for the

preservation, creation, and use in the Town of North Andover of affordable housing for the purposes for which this Trust was formed.

§ 28-3. Tenure of Trustees

There shall be a Board of Trustees consisting of not less than five nor more than seven Trustees who shall be appointed by the Board of Selectmen. At least one of the Trustees shall be a member of the Board of Selectmen. Only persons who are residents of the Town of North Andover shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that two of the initial trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Board of Selectmen. Any Trustee who ceases to be a resident of the Town of North Andover shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

§ 28-4. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, Massachusetts General Laws Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

§ 28-5. Powers of Trustees

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of Massachusetts General Laws Chapter 44, Section 55C:

- A. With the approval of the **Board of Selectmen and Finance Committee (Amended by Article 40 2010 ATM)**, to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property

tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from the General Laws Chapter 44B.

- B. With the approval of the Board of Selectmen, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- C. With the approval of the Board of Selectmen **and Finance Committee** ~~Town Meeting~~ **(Amended by Article 40 2010 ATM)** to sell, lease, exchange, transfer or convey any real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust real property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
- D. With the approval of the Board of Selectmen, to sell, lease, exchange, transfer, or convey any personal property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust personal property notwithstanding the length of any such lease or contract;
- E. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- F. To employ advisors and agents, such as accountants, appraisers and lawyers as the trustees deem necessary;
- G. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the trustees deem advisable;
- H. To apportion receipts and charges between income and principal as the trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- I. With the approval of the Board of Selectmen, to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution, to vote any securities or certificates of interest, and to consent to any

contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

- J. With the approval of the Board of Selectmen, to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the trustees may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board, with the approval of the Board of Selectmen, may deem necessary and appropriate;
- K. To carry property for accounting purposes other than acquisition date values;
- L. With the approval the Board of Selectmen and the approval of Town Meeting by a two-thirds majority vote, to incur debt, to borrow money on such terms and conditions and from such sources as the trustees deem advisable, and to mortgage and pledge trust assets as collateral;
- M. With the approval of the Board of Selectmen, to disburse trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in North Andover upon such terms as the Trustees shall deem most appropriate to carry out such purposes;
- N. To make distributions or divisions of principal in kind;
- O. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of G.L. Chapter 44, Section 55C, to continue to hold the same for such period of time as the board may deem appropriate;
- P. To manage or improve real property and, with the approval of the Board of Selectmen and Town Meeting, to abandon any property which the trustees determine not to be worth retaining;
- Q. To hold all or part of the trust property uninvested for such purposes and for such time as the trustees may deem appropriate; and
- R. To extend the time for payment of any obligation to the trust.

§ 28-6. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid

directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and these funds need not be further appropriated to be expended. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within one year of the date they were appropriated into the trust, remain trust property.

§ 28-7. Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

§ 28-8. Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purpose of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of Massachusetts General Laws Chapter 268A.

§ 28-9. Taxes

The Trust is exempt from Massachusetts General Laws Chapter 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

§ 28-10. Custodian of Funds

The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

§ 28-11. Governmental Body

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of Massachusetts General Laws Chapter 39.

§ 28-12. Board of the Town

The Trust is a board of the Town for purposes of Massachusetts General Laws Chapter 30B and Section 15A of Massachusetts General Laws Chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities,

departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

§ 28-13. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

§ 28-14. Recordings

The Board of Selectmen may authorize the Trustees to execute, deliver and record with the Registry of Deeds any documents required for any conveyance authorized hereunder or to carry out the purposes and powers of the trust.

§ 28-15. Titles

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.

Chapter 41

PERSONNEL

[The North Andover Personnel Bylaw is amended from time to time by Town Meeting vote. The up-to-date Personnel Bylaw is on file in the office of the Town Clerk.]

Chapter 44

PUBLIC MEETINGS

HISTORY: Adopted by the Town of North Andover May 10, 2005 Annual Town Meeting Article 21. Approved by Attorney General August 29, 2005. Amended-Article 9 Special Town Meeting November 17, 2010. Approved by Attorney General March 14, 2011-Posted March 16, 2011. Amendments noted where applicable.]

§ **44-1 Televising of Board Meetings.**

§ **44-1 Televising of Board Meetings**

All meetings of the Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Board of Selectmen and School Committee shall be broadcast live over the local cable television network unless emergency or operational or technical conditions suspend the requirements hereof, as determined by the Town Manager or the Manager's designee. All such meetings shall occur in the Town Hall second floor meeting room or other locations as determined by the Town Manager or the Town Manager's designee. Notice of all such meetings shall be posted in accordance with the requirements of the Open Meeting Law, Massachusetts General Law, Chapter 30A, Sections 18-25 and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting, including application names. If there is a scheduling conflict with the use of the meeting room, the Town Manager or the Manager's designee, shall have the discretion to determine which Board shall have use of the room. Nothing contained in this bylaw shall be so construed as to conflict with the requirements of the Open Meeting law, M.G.L. 30A, Sections 18-25. A violation of this bylaw or a failure to comply with this bylaw shall not be grounds for challenging or invalidating any actions taken at any meeting of the Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Board of Selectmen or School Committee.

Chapter 48

SEAL, OFFICIAL

[HISTORY: Adopted by the Town of North Andover as Chapter 8, §8.1 of the General Bylaws. Amendments noted where applicable.]

§ 48-1 Description.

§ 48-1 Description

The following shall be the device of the official Town Seal. In the center of a double circle, view of a portion of Lake Cochichewick, showing an Indian in a canoe upon its surface, with the words “Lake Cochichewick” appearing below the canoe, and with the words, “settled 1646” appearing at the top of the circumference of the inner circle, and the words “Incorporated April 7, 1855” appearing at the bottom; in the space between the inner and outer circle appear the words “Town of North Andover” at the top of the Seal and the word “Massachusetts” at its bottom.

Chapter 54

TAX COLLECTOR

[HISTORY: Adopted by the Town of North Andover as Chapter 54 of the General Bylaws, Article 19 May 10, 2005 Annual Town Meeting Article 19, Approved by Attorney General August 29, 2005. Amendments noted where applicable.]

§ 54-1 - Duties of Tax Collector.

§ 54-1 - Duties of Tax Collector

The tax collector, in addition to the authority to collect taxes conferred by Massachusetts General Laws, Chapter 41, Section 38, and all other laws relating to tax collection, shall collect all accounts due the town in accordance with the provisions of Massachusetts General Laws, Chapter 41, Section 38A. The collector shall in the collection of such accounts have all the remedies provided by sections thirty-five, thirty-six and ninety three of Massachusetts General Laws, Chapter 60 for the collection of taxes on personal estate. This bylaw shall not apply to the collection of interest on investments of sinking or trust funds. All bills for accounts due the town shall state that all checks, drafts or money orders shall be made payable to or to the order of the town and not to or to the order of any officer, board or commission. Whenever the collector of taxes, in any communication, document or writing intended for use outside his department, identifies a husband and wife, he shall use the name of both husband and wife and shall not use a legal phrase as a substitute for either name.

CHAPTER 59

TOWN MEETINGS

[HISTORY: Adopted by the Town of North Andover as Chapter 2 of the General Bylaws. Amended July 10, 2006 STM Article 12 – Approved by Attorney General September 1, 2006] [Amended May 13, 2009-Article 45 59-5 Paragraph C added] [Amendments noted where applicable.]

GENERAL REFERENCES

Charter Provisions - See Charter Chapter 2

- § 59-1 Adjournment
- § 59-2 Quorum
- § 59-3 Reconsideration Vote
- § 59-4 Secret Ballots
- § 59-5 Information Required for Consideration of Articles
- § 59-6 Annual Town Meeting
- § 59-7 Votes to Be Declared by the Moderator

§ 59-1 Adjournment.

When a Town Meeting shall be adjourned to a time certain that is more than fourteen (14) days from the time of adjournment, the Town Clerk shall cause notice of the time and place of such adjourned meeting to be duly posted in three (3) or more public places in each precinct in the town two (2) days at least before the time of holding said adjourned meeting, which notice shall also briefly state the business to come before such meeting.

§ 59-2 Quorum.

There is no quorum requirement for Annual or Special Town Meetings.

[Amended: STM November 29, 1996 – Approved by Attorney General December 23, 1996]

[Amended: ATM 5-3-1999, Article 14 - Approved by Attorney General July 27, 1999]

§ 59-3 Reconsideration Vote.

Unless the Moderator shall otherwise rule, for reasons which he shall state to the meeting, no second motion for the reconsideration of any action taken by any Town Meeting shall be entertained during that meeting or any adjourned session thereof.

§ 59-4 Secret Ballots.

Upon motion duly made and seconded, at any Annual or Special Town Meeting, and upon the affirmative vote of at least twenty-five percent (**25%**) of the voters present at said Annual or Special Town Meeting, any Article in the warrant for said Annual or Special Town Meeting shall be voted upon by Australian (secret) ballot.

§ **59-5 Information Required for Consideration of Articles.**

[Added: Annual Town Meeting May 2, 1988, Article 44]

A. The sponsor of any Article requiring the raising and/or appropriation of town funds shall provide to the Town Manager and to the Finance Committee the following information:

1. Total estimated dollar cost of the Article including:
 - a. Start-up costs.
 - b. Reoccurring annual costs, including any increase in personnel and/or equipment purchases.
 - c. Source of estimate.
2. Estimate of any possible revenues the project might generate.
3. Proposed source and/or mechanism for funding.
4. Reason(s) for the request, including but not limited to need.
5. Population group most likely to benefit or be affected by the project.
6. Possible alternatives to the requested proposal.
7. Schedule or time frame for completion of the project.
8. Any motions that would be introduced to support the Article as submitted.

B. This information shall be provided within two (2) days after the final fixed date for receiving Articles into the warrant for the Annual or any Special Town Meetings.

C. All CIP (Capital Improvement Plan) articles which seek to raise in excess of \$500,000, shall in addition to any other method of funding, include the appropriate language to allow, but not necessarily require, for funding through a Massachusetts General Laws Chapter 59, Section 21C Debt Exclusion Override. (Added by Article 45 2009 Annual Town Meeting=Approved by Attorney General September 2, 2009)

§ **59-6 Annual Town Meeting**

[Amended: Annual Town Meeting May 2, 1994, Article 17] [Amended: Annual Town Meeting May 12, 1997, Article 37, Attorney General Approval August 13, 1997] [Amended: Annual Town Meeting May 15, 2000, Article 35][Amended: Annual Town Meeting June 12, 2012,Article 8. Approved by Attorney General October 9, 2012]

~~Annual Town Meeting shall be held on the first Monday in May at 7:00 p.m.~~

~~In accordance with MGL Chapter 39, Section 9, which permits the Board of Selectmen to postpone by vote, an Annual Town Meeting, any such postponement shall be held on any weekday evening Monday through Thursday at 7:00 p.m. until all articles in the warrant have been acted upon.~~

The Board of Selectmen shall vote to set the date of the Annual Town Meeting in accordance with Chapter 39 Section 9 of Massachusetts General Laws. Chapter 39 also permits the Board of Selectmen to postpone by vote an Annual Town Meeting. Any such postponement shall be held on any weekday evening Monday through Thursday at 7:00 p.m. until all articles in the warrant have been acted upon. **(Amended by Article 8 June 12, 2012 Annual Town Meeting. Approved by Attorney General October 9, 2013)**

§ 59-7 Votes to be Declared by the Moderator

[Amended: Annual Town Meeting May 12, 1997, Article 37, Attorney General Approval August 13, 1997][Amended July 10, 2006 STM Article 12, Attorney General Approval October 6, 2006]

The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority vote is required.

The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority vote is required.

Chapter 61

TOWN PROPERTY, SALE OF

[HISTORY: Adopted of the Town of North Andover as Ch. 5, Sec. 5.7 of the General Bylaws. Amendments noted where applicable.]

§ 61-1 Authority

§ 61-1 Authority.

Any board or officer in charge of any department of the town may, with the approval of the Selectmen, sell or otherwise dispose of any personal property of the town within its possession or control which has become obsolete or which is no longer required for use of such department, provided that the records of the Selectmen shall contain full information concerning the request of such department head for authority to dispose of such property, and their reasons for approving such request.

PART II

GENERAL LEGISLATION

Chapter 69

ALARM SYSTEMS

[HISTORY: Adopted by the Town of North Andover; Art I: April 23, 1983, Annual Town Meeting, Article 35; Art II: October 27, 1983 Special Town Meeting, Article 5. [Amended: Annual Town Meeting June 6, 2006, Chapter 69-7.1, Article 10; Approved by Attorney General October 16, 2006] Amendments noted where applicable.][Amended: Annual Town Meeting May 21, 2007, Article 48; Approved by Attorney General October 7, 2007][Amended: Annual Town Meeting May 13, 2008 Article 41. Approved by Attorney General September 17, 2008]

ARTICLE I

Fire Detection and Alarm Systems

- § 69-1 Purpose and Scope
- § 69-2 Alarm Installation and Permit Requirements
- § 69-3 Alarm Disconnection and Alteration Notice
- § 69-4 Automatic Shut Off Requirement
- § 69-5 Alarm System Regulations and Maintenance
- § 69-6 Alarm Tests
- § 69-7 False Alarm Assessment
- § 69-7.1 Connection Fees
- § 69-7.3 Consultation with the Office of the Essex County District Attorney
- § 69-8 Forcible Entry of Unoccupied Premises
- § 69-8.1 Secured Key Access

§ 69-1 Purpose and Scope

This by-law shall apply to the installation, operation and maintenance of fire and medical aid alarm systems. Fire, carbon monoxide and medical aid alarm systems shall include systems connected to the North Andover Fire Department by municipal fire alarm circuit, direct wire, wireless, or on a telephone dial up basis and systems which use exterior audible signals at the alarm location as a function of the connected system.

By definition, “Alarm Systems” are those installed for the purpose of notification to the proper response authority of an emergency situation at a property where the component devices of the system are installed.

§ 69-2 Alarm Installation and Permit Requirements

- A. As of the effective date of this by-law, no alarm system or equipment designed to summon the Fire Department shall be installed without a permit signed by the Fire Chief or his designee. The issuance of permits **and the**

imposition of fees shall be in compliance with Massachusetts General Law Chapter 148 Section 10 A.

Changes in the permit or inspection fees may be made with sixty (60) days notice to the general public and with the approval of the Board of Selectmen.

B. Any current or future alarm user may contract with an alarm company of their choice for the purchase, lease, installation and servicing of an alarm system on their premises.

C. Actual connection to the Fire Department's alarm receiving system will be made only by an installer approved by the Fire Chief for this service through the issuance of a permit as per Massachusetts General Law Chapter 148 Section 10A.

D. As of July 1, 2007 connection to the Fire Department's alarm receiving system will be performed only through approved radio master fire alarm boxes.

E. As of July 1, 2007 all buildings and structures connected to the Fire Department's alarm receiving system will be advised that as of July 1, 2012 master fire alarm boxes connected through the hard wired municipal circuit system must be replaced with a radio master box compatible with the Fire Department's alarm receiving equipment. The master boxes on the buildings remain the property of the property owner but must be removed from their location to avoid perceptions that they are connected to the Fire Department. These wireless devices shall be installed and maintained in accordance with the appropriate sections of the then current editions of the following NFPA Standards: NFPA 72 National Fire Alarm Code- NFPA 1221 Standard for the Installation, Maintenance and Use of Emergency Services Communication Systems- NFPA 70 National Electrical Code and all reference documents contained within these codes and the related rules and regulations of the North Andover Fire Department.

F. The alarm system owner or user, or the alarm company contracting for the servicing of the alarm users system, shall be responsible for the care and maintenance of the wireless master fire alarm box transmitting device.

G. The Fire Department will make every effort to insure the proper operation of the alarm receiving equipment, but accepts no liability for conditions, which prevent proper reception of signals from the user's premises. The mounting locations for radio boxes shall require pre-approval of the North Andover Fire Department.

§ 69-3 Alarm Disconnection and Alteration Notice

Whenever an alarm system or equipment is to be disconnected, removed or altered, the owner or user thereof shall notify the Fire Department. This notice shall be in accordance with M.G.L. Chapter 148 Section 10A, Section 27A, and Section 28.

§ 69-4 Automatic Shut Off Requirement

All alarm systems installed after the effective date of this bylaw which use an exterior audible alarm device(s), shall be equipped with a timing unit, which silences the exterior audible device no less than five minutes and no more than ten minutes after the activation of the alarm system.

This section shall not apply to audible automatic fire sprinkler alarm bells either mechanical or electrical, which are used to indicate water flow.

§ 69-5 Alarm System Regulations and Maintenance

- A.** Each alarm user shall submit to the Fire Chief, the names, addresses and telephone numbers of at least two (2) persons who can be reached at any time, day or night, who are authorized to gain access to the protected premises for the purpose of silencing and resetting the alarm system. It shall be the alarm **user's** responsibility to keep this information up to date and current. In addition, each control panel shall have located inside the door, the above mentioned information, as well as the name, address and twenty-four (24) hour telephone number of the company or individual who currently services the system.
- B.** Written instructions for re-setting the alarm system shall be clearly visible on, or adjacent to, the system control panel. Once activated, the system shall not be reset prior to the arrival of the Fire Department. Any attempt to reset a system connected directly to the Fire Department shall be considered a violation of Massachusetts General Law Chapter 268 Section 32 (tampering with a fire alarm signal).

If after three (3) attempts by the fire department, a zone of system will not reset, the zone, or system, shall be left in an un-restored condition. The Fire Department will attempt to notify the responsible parties identified in Section 69-5 (a) of this by-law. The Town assumes no liability for inability to contact listed persons or companies. The Fire Chief or his designee may assign a paid detail to monitor the premises until such responsible parties have arrived at the protected location. The cost of that detail and any equipment associated with it shall be born by the owner, purchaser, lessee or renter of the system.

- C.** All premises shall have their legal street number posted clearly visible as per Massachusetts General Law Chapter 148 Section 59 prior to connection of any alarm to the Fire Department.
- D.** All premises requiring a secured key access box as per Town by-law Section 69-8.1 shall have the device installed prior to issuance of a fire alarm permit.

§ 69-6 Alarm Tests

No alarm system designed to transmit emergency messages or signals directly to the Fire Department or through the dispatch center for the fire department shall be worked on, tested or demonstrated without first obtaining permission from the Fire Chief or his designee in accordance with Massachusetts General Law Chapter 148 Section 27A. An

alarm transmitted when such work is being performed without permission will constitute a false alarm and subject to the fee assessment as shown in Section 7.0.

§ 69-7 False Alarm Assessment

- A. Alarm systems which generate false alarms shall be subject to the following assessment:

Fire Alarm, Carbon Monoxide Alarm & Emergency Medical Systems

FALSE ALARM	ASSESSMENT
-------------	------------

1 THROUGH 3	NONE
-------------	------

4 THROUGH 5	\$300 EACH
-------------	------------

6 OR MORE	The current costs for all the
-----------	-------------------------------

	personnel and equipment that
	respond to each call.

The Fire Chief shall have the authority to waive the assessment if in his judgment extenuating circumstances justify such a waiver.

After a third false alarm, the Fire Chief shall notify the responsible party in writing that the next false alarm incident will result in an assessment charge.

Alarm users who present a valid service contract or similar agreement for the protected property will receive a twenty-five dollar (\$25.00) credit against any assessment. It is the intent of this section to have the system maintained on a regular basis.

- B.** False alarms caused by faulty telephone service, municipal equipment or electrical storms will be excluded from assessment.
- C.** False alarms received during the first thirty (30) days following installation shall not be counted for the purposes of false alarm assessment, provided no malicious intent has occurred and every attempt has been made to rectify new installation defects.
- D.** Determination that a false alarm has been transmitted will be the judgment of the Fire Chief or his duly appointed duty officer.
- E.** Any person(s) who maliciously and/or intentionally activates a fire alarm device which automatically transmits an alarm to the Fire Department, when there is no fire or emergency situation, shall be fined.

§ 69-7.1 Connection Fees

Each alarm user shall on or before October 1st of each year remit to the Fire Department a service fee for the coming year for Master Fire Alarm Boxes and Digital Alarms. The fees shall be established by the Board of Selectmen.

Those properties that convert to a radio control Master Box that is compatible with the North Andover Fire Department receiver shall no longer be billed ~~the fee once the radio box is properly installed and functioning as approved by the North Andover Fire Department.~~ **under the existing fee structure, once the radio box is properly installed and functioning as approved by the North Andover Fire Department. In accordance with the Town by-law the Board of Selectmen can establish fees, at any time, which reflect the costs of services provided. (Amended by Article 41 2008 Annual Town Meeting. Approved by Attorney General September 17, 2008)**

Fire alarm system devices owned by the Town of North Andover shall be exempt from the provisions of Sections 69-7 and 69-7.1.

Until a new fee is established by the Board of Selectmen, the Town shall continue to charge the same fees that were in effect immediately prior to the effective date of this bylaw.

§ 69-7.2 Violations

The following acts shall constitute a violation of these regulations and the responsible person or persons shall be punished by a fine of not less than \$50.00 nor more than \$200.00 per offense. (Each day in which a violation occurs will be considered a separate offense.)

- A. Failure to follow an order issued by the Fire Chief to disconnect a fire alarm system automatic notification device.
- B. Using a telephone-dialing device arranged to dial a Fire Department number without authorization under this by-law.
- C. Failure to pay any fee assessed under either or both Sections 69-7 or 69-7.1 of these regulations within sixty (60) days from the assessment.
- D. Failure to comply with the requirements set forth in these regulations.
- E. Continued transmission of false alarms caused by the user's negligence or system malfunctions on the premises under the user's control where no effective effort is made to correct the condition.
- F. Knowingly failing to maintain any alarm system, covered by this by-law, in proper working order.
- G. Causing, through negligence, a condition, which interferes with the operation of, or causes damage to the municipal fire alarm system.

- H. Maliciously and/or intentionally activating a fire alarm device which automatically transmits an alarm to the Fire Department, when there is no fire or emergency situation.

§ **69-7.3 Consultation with the Office of the Essex County District Attorney**

In consideration of General Laws Chapter 268, Section 32, Chapter 269, Section 13 and other applicable state laws, the Town shall consult with the Office of the Essex County District Attorney prior to any court action against anyone for noncompliance with this Chapter 69 or prior to the imposition of any assessment or fines pursuant to Chapter 69 Section 7.

§ **69-8 Forcible Entry of Unoccupied Premises**

When the Fire Department responds to an alarm of fire, transmitted by a fire detection and alarm system, where the premises are unoccupied; the Department is unable to gain access to the structure; and is unable to contact any of the individuals listed, for access; the Fire Officer in command, may, if he has reasonable concern or suspicion that a fire exists within the structure, make a forcible entry to determine whether or not fire conditions exists. If this action becomes necessary, the Fire Officer shall:

- A. Notify the Police Department of this action.
- B. Secure the premises insofar as feasible.
- C. Continue efforts to contact the individuals listed as responsible for the structure.
- D. Enter the action taken in the Fire Department log.

§ **69-8.1 Secured Key Access**

Any building other than a residential building of fewer than six (6) units which has a fire alarm system or other fire protection systems shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the North Andover Fire Department and shall be located and installed as approved by the Chief, Any building owner violating this Article after receiving due notice by the Fire Department shall be subject to the provisions of the Non-Criminal Disposition Violations Chapter 40 §21D.

ARTICLE II

Burglar Alarm Systems

[HISTORY:Adopted: Special Town Meeting October 27, 1983, Article 5]

- § 69-9 Definitions; Word Usage
- § 69-10 Automatic Dialing Devices
- § 69-11 Direct Connections to Police Department
- § 69-12 Miscellaneous Requirements
- § 69-13 False Alarms
- § 69-14 Violations and Penalties
- § 69-15 Severability
- 3
- § 69-9 Definitions; Word Usage

A. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future. The word “shall” is always mandatory and not merely directory.

B. As used in this Article, the following terms shall have the meanings indicated:

ALARM CONSOLE - The instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

ALARM SYSTEM - An assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a one hundred ten (110) volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond, Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises, or an attempted robbery at a premises, are specifically excluded from the provisions of this section.

ALARM USER or USER - Any person on whose premises an alarm system is maintained within the town except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this section are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system

shall be within the definition of “alarm system” as that term is used in this section, and shall be subject to this section.

AUTOMATIC DIALING DEVICE - An alarm system which automatically sends over regular telephone lines by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

CENTRAL STATION - An office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals,

DIRECT CONNECT - An alarm system which has the capability of transmitting system signals to and receiving them at the Police Department alarm console.

FALSE ALARM -

1. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.
2. Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department which in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises.

Excluded from this definition are activation's of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

INTERCONNECT - To connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

POLICE CHIEF - The Chief of Police of the town or his designated representative.

POLICE or POLICE DEPARTMENT - The Town Police Department or any authorized agent thereof.

PUBLIC NUISANCE - Anything which annoys, injures or endangers the comfort, repose, health or safety of a considerable number of persons or of any community or neighborhood.

§ **69-10 Automatic Dialing Devices**

- A. The Police Chief may promulgate such rules as may be necessary for the implementation of this section.
- B. Automatic dialing devices (interconnection to Police Department): By August 1, 1983, all dialers shall be reprogrammed to interconnect to the alarm console at the police station.
- C. Intermediary services: Any persons using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
 - 1. A central station
 - 2. An answering service.
 - 3. Any privately owned or privately operated facility or terminal.

§ **69-11 Direct Connections to Police Department.**

- A. Alarm systems may be connected to the alarm console in the Police Department.
- B. Services shall be set forth in the form of a written contract between the alarm company and each user. The provisions of this subsection relate solely to the aforementioned alarm console, connections to said console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance and/or servicing of the alarm system to be installed on his premises.
- C. The alarm user or the alarm business contracting for servicing the alarm user's alarm system shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm receiving equipment at the Police Department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the alarm console.
- D. The provisions of Section 69-13 concerning false alarms shall apply to all alarm users or person having direct connect systems, except municipal, county and state agencies.

§ 69-12 Miscellaneous Requirements.

- A.** Every alarm user shall submit to the Police Chief the names and telephone lines of at least two (2) other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed.
- B.** All alarm systems directly connected to the police station shall be equipped with a device which will give a ten-second delay or longer prior to alarm system activation in order to warn the alarm user of an open alarm circuit.
- C.** All alarm systems installed after May 1, 1983, which use an audible horn or bell shall be equipped with a device that will sound minutes after activation of the alarm system.
- D.** Any alarm system emitting a continuous and uninterrupted signal for more than twenty (20) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or other persons designated by him under Subsection A of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user under Subsection A of this section in an effort to abate the nuisance, The Police Chief shall cause to be recorded the names and addresses of all complaints and the time that each complaint was made. In the event that the Police Chief is unable to contact the alarm user, or members of the alarm user's family or other persons designated by the alarm user under Subsection A of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the Police Chief is otherwise unable to abate the nuisance he may direct a police officer or a fire fighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance. If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property shall not conduct, engage in or undertake any search, seizure, inspection or investigation while he is upon the property; shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and shall leave the property immediately after the audible signal has ceased.

After entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this section shall be assessed to the alarm user, said assessment not to exceed fifty dollars (\$50). Within ten (10) days after abatement of a nuisance in accordance with this section, the alarm user may request a hearing before the Board of Selectmen and may present evidence showing that the signal emitted by his alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the costs of the abatement should not be assessed to him or that the requirements of this section were not fulfilled. The Board shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to his property necessitated by the abatement, or excuse the alarm user from paying the costs of the abatement.

E. Testing of equipment.

1. No alarm system designed to transmit emergency messages directly to the Police Department shall be worked on, tested or demonstrated without obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department. An unauthorized test constitutes a false alarm.

2. Any repair or test of private equipment that requires over twenty (20) minutes to complete will require that an employee of the company doing the repair, be in the North Andover Police Station to reset the alarm until such time as the alarm is repaired or disconnected.

§ 69-13 False Alarms.

A. When emergency messages are received by the Police Department that evidence false alarms, the Police Chief shall take such action as may be appropriate under Subsection B, C and D of this section, and, when so required by the terms of the aforementioned subsections, order that use of an alarm system be disconnected.

B. After the Police Department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Police Chief shall notify the alarm user, in person, by telephone or by mail, of such fact and require said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If said

user, on the basis of absence from the city or on any other reasonable basis, requests an extension of time for filing the report, the Police Chief may extend the fifteen-day period for a reasonable period. If said user fails to submit such a report within fifteen (15) days or within any such extended period, the Police Chief shall order that use of the alarm system be disconnected. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

C. In the event that the Police Department records five (5) false alarms within the calendar year from an alarm system, the Police Chief shall order that the user of the alarm system discontinue the use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected. In the event that the Police Department records eight (8) false alarms within the calendar year from an alarm system, the Police Chief shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.

D. Any user of an alarm system which transmits false alarms shall be assessed a fine of twenty-five dollars (\$25) for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the Town Treasurer for deposit in the general fund. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment, the Police Chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

E. Any user of an alarm system who has, in accordance with this section, been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Board of Selectmen. Notice of an appeal shall be filed with the Clerk of the Board of Selectmen within ten (10) days of the date of the order of discontinuance. Thereafter, the Board shall consider the merits of the appeal, and in connection herewith shall hear evidence presented by all interested persons. After hearing such evidence, the Board may affirm, vacate or modify the order of discontinuance.

§ 69-14 Violations and Penalties.

A. The following acts and omissions shall constitute violations of this section punishable by a fine of fifty dollars (\$50):

- 1.** Failure to obey an order of the Police Chief to discontinue use of an alarm system, after exhaustion of the right of appeal.
- 2.** Failure to disconnect an automatic dialing device from any telephone numbers at the Police Department within six (6) months after the effective date of this Article.

3. Interconnection of an automatic dialing device to any telephone numbers at the Police Department after the effective date of this Article.
4. Failure to pay two (2) or more consecutive fines assessed under this section within sixty (60) days from the date of assessment.
5. Failure to comply with the requirement of Section 69-13 of this Article.

B. Each day during which aforesaid violations continue shall constitute a separate offense.

C. The Enforcement Agent for purposes of this Bylaw shall be the Police Chief or his designee. [Added by Article 10 2006 Annual Town Meeting]

§ **69-15 Severability.**

The invalidity of any part or parts of this Article shall not affect the validity of the remaining parts.

Chapter 70

Automatic Amusement Devices, Licensing of

[HISTORY: Adopted by the Town of North Andover May 13, 2000 Annual Town Meeting, Article 34 – Approved by Attorney General October 12, 2000. Amendments noted where applicable.]

In accordance with Massachusetts General Laws, Chapter 140, Section 177A, as amended, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward shall secure an annual license from the Board of Selectmen. The Board of Selectmen shall not grant a license for any automatic amusement device which presents a risk of misuse as a gaming device.

Automatic amusement devices that present a risk of misuse as gaming devices are those that have one or more of the following:

- The device involves matching random numbers, patterns or cards.
- The device accumulates more than twenty-six (26) plays.
- The device is equipped with a “knock off” switch, button or similar device.
- The device has a mechanism for adjusting the odds.
- The device has a remote control feature that can reset the device from another location.
- The device is capable of returning money to the player, other than change for the excess amount put in.
- The device permits a player to pay for more than one game at a time.

Each game on the device shall cost exactly the same amount for each player and no player may change any aspect of the game by paying a different amount than any other player before or during the game. There shall be no metering device that accounts for both money/points in any money/points out.

The maximum number of automatic amusement devices allowed on any single business premises shall be four (4) except in the case of duly licensed arcades and amusement parks. Any individual or business desiring more than four (4) automatic amusement devices on a single business premise shall require a special permit from the Board of Appeals. All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject to inspection by the North Andover Police Department to insure conformance with this amusement device bylaw and the submitted application information. Any unlicensed automatic amusement device shall be subject to immediate seizure by the North Andover Police Department.

CHAPTER 73

BEAVER BYLAW – PROTECTION FROM DAMAGE DUE TO BEAVER DAMS AND BLOCKAGES

[HISTORY: Adopted by the Town of North Andover May 17,2004 Annual Town Meeting, Article 347– Approved by Attorney General September 12,2004]

§	73-1	Purpose
§	73-2	Board of Health Responsible
§	73-3	Clarify interpretation of Section 80A
§	73-4	Responsibility of Property Owners
§	73-5	Town as Property Owner
§	73-6	Board of Health to Notify Responsible Parties
§	73-7	Town Departments as Specialists
§	73-8	Long Term Site Management Plans
§	73-9	Sewer Pumping Stations
§	73-10	Fees
§	73-11	Severability

Section 73.1: Purpose

The Town of North Andover hereby enacts this Bylaw, in strict compliance with Massachusetts General Laws Chapter 131, Section 80A, as amended (‘Section 80A’), and all other applicable Federal and State laws, rules, and regulations (altogether, the ‘Rules’), for the efficient protection of human health and safety and public and private property from damage resulting from beaver or other animal-related dams and blockages.

Section 73.2: Board of Health Responsible

This bylaw affirms the above Rules and specified processes and directs that the Rules be followed in their word and their intent in the Town of North Andover. The emphasis shall be on creating an implementation that, consistent with the Rules, is effective and efficient and minimally burdensome on the Town and its residents and property owners over both the short and the long term. The North Andover Board of Health shall take a leadership role and primary responsibility in defining and managing that implementation.

Section 73.3: Clarify interpretation of Section 80A

The Board of Health will actively work to formally clarify the meaning of any portions of Section 80A about which there is doubt or differing interpretation, consistent with other applicable laws, rules, regulations, and judicial decisions in Federal and State courts.

Section 73.4: Responsibility of Property Owners

It shall be the duty of each property owner to manage any dams or blockages on their property in accordance with all applicable laws, rules, and regulations, and so as to minimize or eliminate damage or threat to human health and safety of others.

Section 73.5: Town as Property Owner

As property owner, the Town is responsible for the management of dams or blockages on Town property.

Section 73.6: Board of Health to Notify Responsible Parties

In cases where the Board of Health determines, consistent with Section 80A, that there is a threat to human health or safety due to a dam or blockage on a particular property, the Board will immediately notify the property owner and direct that the property owner immediately resolve the problem consistent with Mass. General Laws Chapter 111, Section 123.

Section 73.7: Town Departments as Specialists

The Board of Health and the Conservation Commission will actively assist in the resolution of difficulties between property owners around these issues, and assist and provide guidance to private property owners in the management of their own difficulties in this regard.

Section 73.8: Long Term Site Management Plans

The Board of Health, working with the Massachusetts Division of Fisheries and Wildlife (DFW), will take an active, leadership role in the development and approval of a comprehensive, practical, long term management plan for each site where there is determined to be an issue within the scope of Section 80A.

The Town will store all such plans, make available copies for use in other situations where a plan is being developed, and provide copies at cost whenever requested; preferably also making all such plans freely available on the Town website for easy reference.

A long term plan shall be for a site, not an individual. As such, a long term plan may run with the land.

All persons to whose property access is required to implement a long term plan, or whose property is affected by the problem, may be a part of the preparation of and agreement to such plan.

A long term plan shall be for the foreseeable future, although any plan is modifiable whenever the need arises. Such plans shall be written and shall be specific about what is to be done, who is responsible, the geographic area of the site, and what inspections are to be performed to verify that the plan is being followed.

A long term plan should strive to minimize the number of other permits required to be obtained and kept in effect.

Section 73.9: Sewer Pumping Stations

In addition to continuing to work together for the protection of our sewer pumping stations and our water supply, the Division of Public Works and the Water and Sewer Departments (herein DPW+W+S) shall be knowledgeable about all waterways near or affecting sewer pumping stations. The DPW+W+S shall proactively address any site where a dam or blockage is likely to impact a sewer pumping station.

Section 73.10: Fees

The Board of Selectmen is authorized to establish a comprehensive fee schedule under this bylaw. Said fee schedule, to the extent allowed by law, shall supersede related fee schedules established by other town departments and/or boards. The intent of this section is to establish one unified fee structure relating to beaver control.

Section 73.11: Severability

If any provision of this bylaw is determined to be invalid, such determination shall not affect the validity of the other provisions of this bylaw, which other provisions shall remain in full force and effect.

Chapter 77

BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town of North Andover April 26, 1980 Annual Town Meeting, Article 50. [Deleted and Replaced- Article 10, 2006 Annual Town Meeting] Amendments noted where applicable.]

§ 77-1 Building Permit Fees, Exclusive of Mechanical and Utility Fees

§ 77-1 Building Permit Fees, Exclusive of Mechanical and Utility Fees

[Amended: Annual Town Meeting April 25, 1981, Article 21; Annual Town Meeting April 27, 1985, Article 54; Annual Town Meeting May 5, 1992, Article 36; Annual Town Meeting May 3, 1993, Article 28; Annual Town Meeting June 6, 2006, Article 10]

The following costs and fees shall be established by the Board of Selectmen:

A. A per square foot cost factor which shall be used to estimate the cost of new construction.

B. Fees for new construction at a rate per thousand dollars of estimated cost of construction or actual contract price, whichever is greater.

C. Fees for additions, alterations and remodeling at a rate per thousand dollars based upon the estimated cost of construction. Estimated construction cost of additions, alterations and remodeling shall be the actual contract price. There shall be a minimum fee per permit to be established by the Board of Selectmen.

D. Copies of the actual contract price shall be submitted with the Building Permit Application.

E. Building permit fees shall be required for municipally owned buildings and structures. Building permit fees for buildings and structures wholly owned by the Town of North Andover may be waived, in whole or in part, only by the Board of Selectmen based on the Board's determination of the benefits accruing to the Town from such a waiver. In all cases, fees will be required for mechanical and utility permits.

The Building Inspector shall periodically make a recommendation to the Town Manager relative to the adequacy of the fees, fines and assessments and the schedule relative thereto, as cited above, which may be adjusted by the Board of Selectmen as required.

Until a new fee is established by the Board of Selectmen, the Town shall continue to charge the same fees that were in effect immediately prior to the effective date of this bylaw.

Chapter 78

Stretch Energy Code

[HISTORY: Adopted by the Town of North Andover May 10, 2016 Annual Town Meeting, Article 8. Approved by Attorney General June 15, 2016]

- § **78.1 Definitions**
- § **78.2 Purpose**
- § **78.3 Applicability**
- § **78.4 Stretch Code**
- § **78.5 Effective Date**

78.1 Definitions

International Energy Conservation Code (IECC)

The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code

Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

78.2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

78.3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

78.4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of North Andover General Bylaws, Chapter 78.

The Stretch Code is enforceable by the inspector of buildings or building commissioner.

78.5 Effective Date

The effective date of this bylaw shall be January 1, 2017.

CHAPTER 82

DEMOLITION DELAY

§	82-1	Intent and Purpose
§	82-2	Definitions
§	82-3	Procedures
§	82-4	Administration
§	82-5	Enforcement and Remedies
§	82-6	Historic District Act
§	82-7	Severability

§ 82-1. Intent and Purpose.

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

§ 82-2. Definitions.

APPLICANT-Any person or entity that files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION-An application for the demolition of a building.

BUILDING-Any combination of materials forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER or INSPECTOR- The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION - The North Andover Historical Commission or its designee.

DEMOLITION-Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED - Any significant building, which the Commission determines, following a public hearing that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the **twelve-month** demolition delay period of this bylaw.

SIGNIFICANT BUILDING - Any building within the town which is in whole or in part **one hundred years** or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- a. The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- b. The Building has been found eligible for the National Register of Historic Places; or
- c. The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- d. The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

§ 82-3. Procedures.

No demolition permit for a building which is in whole or in part **one hundred years** or more old shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over **one hundred years** old for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner an application containing the following information:

- a. The address of the building to be demolished.
- b. The owner's name, address and telephone number.
- c. A description of the building.
- d. The reason for requesting a demolition permit.
- e. A brief description of the proposed reuse, reconstruction or replacement.
- f. A photograph or photograph(s) of the building.

The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within thirty days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within thirty days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of **twelve months** from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-one days of the public hearing, the Building Commissioner may issue the demolition permit.

Upon a determination by the Commission that any building that is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of **twelve months** from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the **twelve months** if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose

of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the **twelve-month** delay period, the Building Commissioner may issue the demolition permit.

§ **82-4. Administration.**

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may pro-actively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

An Emergency Demolition shall be allowed, if after an inspection, the Building Commissioner finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner of the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

§ **82-5. Enforcement and Remedies.**

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

§ 82-6. Historic District Act.

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

§ 82-7. Severability.

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

Chapter 88

ANIMAL CONTROL

[HISTORY: Adopted by the Town of North Andover as Ch. 7 of the General Bylaws. Amended by Article 6, 2014 ATM-Deleted in Entirety and Replaced. Approved by Attorney General September 3, 2014. Amendments noted where applicable. Amended by Article 6 2016 ATM- Section 88-5. Approved by Attorney General June 15,2016]

CHAPTER 88 – DOGS - ANIMAL CONTROL

§ **88-1 Animal Control**

Pursuant to the authority set forth in MGL Chapter 140, §§136A to 175, the following bylaw is enacted for the regulation of dogs in the Town of North Andover.

§ **88-2 Definitions**

As used in this bylaw, the following words and terms have the following meanings:

§ **88-2.1 Animal Control Officer (ACO)**

A person appointed by the Board of Selectmen in accordance with the provisions of M.G.L. Chapter 140, §§151 and 151A.

§ **88-2.2 Destruction**

An order by the Hearing Authority that a vicious dog be destroyed in accordance with MGL Chapter 140, §§136A to 175 and Massachusetts Society for the Prevention of Cruelty to Animals guidelines.

§ **88-2.3 Keeper**

A person, business, corporation, entity or society other than the owner, having possession of a dog.

§ **88-2.4 Kennel**

A pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel personal kennel, or veterinary kennel.

§ **88-2.5 Kennel License**

A special license issued to a kennel, which allows payment of a single fee covering all dogs in the kennel; with the kennel license, the kennel owner receives a special kennel tag for each dog in the kennel.

§ **88-2.6 License**

A dog's registration, evidenced by a tag issued annually by the Town Clerk to the owner of each dog residing in North Andover and worn by the dog securely fixed to its collar or harness.

- § **88-2.7 License Transfer**
The registration issued to a dog already licensed in another U.S. jurisdiction, after the dog moves into the Town of North Andover.
- § **88-2.8 Licensed Period**
An annual period from January 1 through December 31.
- § **88-2.9 Muzzling**
Using a device that fits over a dog's mouth and prevents it from biting, but that does not cause any injury or interfere with the vision or respiration of the dog that wears it.
- § **88-2.10 Nuisance Dog**
A dog that (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat was not a grossly disproportionate reaction under all the circumstance.
- § **88-2.11 Permanent Restraint**
An order issued by the Hearing Authority under Section 88-5, requiring vicious dog's keeper or owner to restrain it.
- § **88-2.12 Restraint**
Limiting, restricting, or keeping an animal under control by means of a physical barrier (i.e., a leash, substantial chain or line, visible or invisible fence).
- § **88-2.13 Running at Large**
A dog is running at large if it is not on the private property of its keeper or owner, or on private property with the express permission of that property's owner, or on a leash.
- § **88-2.14 Temporary Restraint**
An order issued by the ACO under Section 88-4, requiring the dog's keeper or owner to restrain a nuisance dog or suspected vicious dog for thirty (30) days.

88-2.15 Vicious Dog

A dog that, without provocation, bites a human being or kills or maims a domestic animal without provocation.

88-2.16 Other Meanings

Any word or term defined in MGL Chapter 140 §136A, and not otherwise defined here, is incorporated by reference.

88-3 Vaccination, Licensing and Fees

88-3.1 Four or fewer Dogs

License and vaccination requirements

All dogs six months and older, while residing in the Town of North Andover, must have a license from the Town Clerk. To obtain or renew the license, each dog owner must annually present proof of a current rabies vaccination. When a veterinarian determines that vaccination is inadvisable, the owner may present a veterinarian's certificate exempting an old or sick dog from vaccination for stated period of time.

New Dogs

Within thirty (30) days of acquiring a dog six (6) months of age or older, each dog owner in North Andover must present proof of that dog's current rabies vaccination and obtain a license and dog tag from the Town Clerk.

New Puppies

Within six (6) months of a puppy being born, each dog owner in North Andover must present proof of that puppy's current rabies vaccination and obtain a license and dog tag from the Town Clerk.

New Residents

A new resident who owns a dog six (6) months of age or older must license it within thirty (30) days after moving into North Andover. The Town Clerk will issue each dog a transfer license upon the owner's surrender of a current license from another U.S. jurisdiction and proof of current rabies vaccination. The transfer license is valid until the next regular licensing period.

Lost Tags and Replacement Tags

Dog owners must replace a lost tag within three (3) business days of the loss, by obtaining a replacement tag from the Town Clerk.

Tag exemptions for dog events and medical reasons:

- A dog while actually participating in an official dog sporting or dog fancy event (if the event sponsors do not allow participants to wear tags) is exempt from the requirement that its license tag be affixed to its collar, provided its keeper has the tag at the event and available for inspection by the ACO.
- When a veterinarian determines that a dog cannot wear a collar for medical reasons, the dog is exempt from wearing a tag until it recovers, from the requirement that its license tag be affixed to its collar, provided its keeper has the tag in his or her possession and available for inspection by the ACO.

Annual Renewal

Dog owners must renew each dog license annually. The annual licensing period runs from January 1 through December 31.

License Due Date and Late Fee

The application form for obtaining, renewing or transferring a license shall be available to each household no later than December 31 each year. Dog owners must return forms and fees to the Clerk by March 1 (or the first business day thereafter, if March 1 falls on Friday, Saturday, Sunday or legal holiday). Any license renewed after this date is overdue, and the owner must pay a late fee as determined by the Board of Selectmen in addition to the license renewal fee. The overdue license fee and the late fee may be added to the owner's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the dog owner, pursuant to MGL Chapter 40 §58.

License Fees

The fees for licensing each dog shall be determined by the Board of Selectmen. The fees shall differentiate between neutered or spayed dogs, and non-neutered or non-spayed dogs. The fee for neutered or spayed dogs shall be less than the fee for non-neutered or non-spayed dogs.

88-3.2 More than Four Dogs

License and Vaccination Requirements

Anyone who owns or boards more than four dogs within the Town of North Andover must apply for and obtain a kennel license from the Town Clerk. (This requirement shall not apply to medical boarding by a licensed veterinarian practicing in the Town of North Andover.) To obtain or renew the license, the kennel licensee who is also the owner of the dogs must present proof of current rabies vaccinations for each dog older than six months in the kennel. When it is off the kennel

property, each dog in the kennel must wear a kennel tag, issued by the Town Clerk, affixed to its collar or harness. Kennel licensees who offer temporary boarding services must obtain valid proof that each dog in the kennel that is older than 6 months has received a current rabies vaccination which proof must be maintained in accordance with 88-3.1.

New Dogs and New Puppies

The kennel licensee who is also the owner of the dogs must report to the Town Clerk each new dog in the kennel within thirty (30) days of its acquisition, show proof of current vaccination, and obtain a kennel tag for that dog. The kennel licensee must show proof of current vaccination and obtain a tag for each puppy when it reaches six months old.

Inspection Process

Before the Town Clerk can issue the kennel license, the Health Division Animal Inspector must inspect the proposed kennel, file a report on the inspection, and favorably recommend that the kennel meets all the following requirements:

- The location of the kennel is appropriate for housing multiple dogs.
- The location of the kennel on the property will have no significant adverse effect on the peace and quiet or sanitary conditions of the neighborhood.
- The area provided for housing, feeding, and exercising dogs is no closer than twenty (20) feet to any lot line.
- The area provided for housing, feeding, and exercising dogs is no closer than fifty (50) feet to any existing dwelling on an abutting lot.
- The kennel will be operated in a safe, sanitary and humane condition.
- Records of the numbers and identities of the dogs are properly kept.
- The operation of the kennel will be consistent with the health and safety of the dogs and of the neighbors.

Periodic Inspections

Before a kennel license is renewed, and at any time they believe it necessary, the ACO and/or the Health Division may inspect any kennel. If the ACO or the Health Division determine that the kennel is not being maintained in a safe, sanitary and humane condition, or if the kennel records on the numbers and identities of the dogs are not properly kept, the ACO will report the violations to the Hearing Authority for a hearing on whether to impose fines or revoke the kennel license.

Kennel Review Hearings

Within seven (7) business days after receiving the ACO's report of violations, the Hearing Authority will notify all interested parties of a public hearing to be held within fourteen (14) days after the notice date. Within seven (7) business days after the public hearing, the Hearing Authority shall revoke the kennel license, suspend the kennel license, order compliance, or otherwise regulate the kennel.

Penalties

Any person maintaining a kennel after the kennel license has been denied, revoked or suspended will be subject to the penalties in Section 88-7 of this bylaw.

Annual Renewal

Each kennel licensee must renew the license annually at the Town Clerk's Office. The annual licensing period runs from January 1 to December 31.

License Due Date

Kennel license renewal forms will be sent to each licensed kennel no later than December 1 each year. Kennel licensees must return forms and fees to the Town Clerk by January 15 (or the first business day thereafter, if the 15th falls on Friday, Saturday, Sunday or legal holiday). Failure to pay on time will result in a late fee due in addition to the license fee. The overdue license fee and the late fee may be added to the licensee's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the kennel licensee, pursuant to MGL Chapter 40, §58. Nothing in this bylaw shall prevent or abrogate the Board of Health's authority to license and inspect kennels in the Town of North Andover.

Fees

The fees for licensing each kennel shall be established by the Board of Selectmen.

88-3.3 Conduct of Animals**88-3.3.1 Endangered Safety**

No animal keeper or owner shall allow its animal to bite, menace or threaten, all without provocation, so as to endanger the safety of any person. This section is not meant to preclude an animal from acting as a watchdog on its keeper's or owner's property.

88-3.3.2 Disturbing the Peace

No animal keeper or owner shall allow the animal to disturb the peace of any neighborhood by making excessive noise without provocation. Noise is excessive if it is uninterrupted barking, yelping, whining or howling for a period of time exceeding 15 minutes. This section is not meant to preclude a dog from acting as a watchdog on its keeper's or owner's property.

88-3.3.3 Damaging Property

No animal keeper or owner shall allow the animal to damage public or private property or realty.

88-3.3.4 Running at Large

When not on the private property of its keeper or owner, or on private property with the express permission of that property's owner, an animal must be on a leash.

Public Gatherings – Leash Control Only

Animals shall be prohibited at public gatherings permitted by the Town Manager or Town Manager's designee unless specifically allowed. Unless prohibited by the Board of Selectmen for any particular gathering, an animal may be at any other public gathering not otherwise specified in this bylaw only if it is on six-foot or shorter leash, and the owner or keeper of the animal shall not allow it to act in violation of this bylaw or other applicable law.

School Grounds

The School Principal shall have jurisdiction over the presence of animals on school grounds.

Exception for Assistance Animals (Service Animals)

Section 88-3.3.4 does not apply to any properly trained assistance animal or service animal while performing its duties.

88-3.3.5 Chasing

No animal keeper or owner shall allow the animal to chase a person, motor-powered vehicle, human-powered vehicle, or animal drawing or carrying a person.

88-3.3.6 Dog Litter

Every dog keeper or owner is responsible for expeditiously removing any dog feces the dog deposits anywhere except on its keeper's or owner's private property, on other private property with the property owner's permission. This provision does not apply to any assistance dog or service dog while it is performing its duties.

88-4 Animal Control Officer

88-4.1 Appointment

The Board of Selectmen shall appoint an Animal Control Officer (ACO) under the provisions of MGL Chapter 140, §§151 and 151A to carry out the provisions of this bylaw and to perform such other duties and responsibilities as the Board of Selectmen or its designee may determine.

88-4.2 Duties

The ACO's duties shall include but not be limited to the following:

- Enforce the Town of North Andover Animal Control bylaw and relevant State laws and regulations.
- Explanation of bylaw violations.
- Notification to the owner of unlicensed dogs.

Issuance of Temporary Restraint Orders

The ACO shall issue an order of temporary restraint to the keeper of any animal that is a nuisance or that is awaiting a decision under Section 88-6 as to whether it is vicious. An order of temporary restraint is an order that the animal must be confined to its keeper's or owner's property when not on a six (6) foot or shorter leash or may be ordered to be sheltered at a local kennel or veterinarian facility at the animal owner's expense; muzzling will be at the ACO's discretion. It shall be in force for no more than thirty (30) days unless the ACO renews it in writing for subsequent thirty (30) day periods. The ACO shall rescind or stop renewing the order when, in the ACO's judgment, restraint is no longer required. The animal's keeper or owner can petition the Hearing Authority under Section 88-5.2 to rescind the order for Temporary Restraint.

Issuance of an Order of Confinement

The ACO may make arrangements for the temporary housing of any animal that is to be confined under the provisions of this bylaw. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, and shall be at the animal owner's expense.

Complaint Resolution

The ACO shall keep accurate, detailed records of the confinement and disposition of all animals held in custody and of all bite cases reported, and the result of investigations of the same. The ACO shall maintain a telephone log of all calls regarding animals and submit a monthly report summarizing the log to the Hearing Authority.

88-5 Hearing Authority

88-5.1 Hearing Authority

The Hearing Authority shall be the Police Chief or his or her designee;~~however the designee shall not be the ACO.~~ (Added by Article 6 2016 ATM May 10, 2016 and approved by Attorney General June 15, 2016)

88-5.2 Right to Appeal

When the ACO has investigated a complaint regarding an animal's behavior and has issued a finding or an order of Temporary Restraint with which either the animal's keeper or owner or the complainant disagrees, then either party may appeal by sending a written request to the Town Clerk within ten (10) business days after issuance of the ACO's decision. Following the Clerk's receipt of a written appeal, the Hearing Authority shall hold a public hearing on the appeal.

88-5.3 Findings and Further Appeals

The Hearing Authority shall decide whether to uphold, reverse, or modify the ACO's decision and shall mail its ruling to the animal owner, complainant, and ACO.

88-5.4 Hearings

The Hearing Authority shall hold public hearings and make decisions on any vicious dog declaration under Section 88-6.

88-5.5 Further Appeals

An appeal from a decision of the Hearing Authority may be made by either the Owner or Complainant.

88-6 Vicious Dogs

88-6.1 Declaring a Dog Vicious

Any dog that, without provocation, bites a human being or kills or maims a domestic animal without provocation may be declared vicious by the Hearing Authority. An exception may be made for a puppy (animal under six (6) months old) that draws blood, or for a dog that attacks or bites an unaccompanied domestic animal on the dog keeper's property.

88-6.2 Procedure for Declaring a Vicious Dog

Upon the written complaint of the ACO, any other public safety agent, or upon the written complaint of any person the Hearing Authority

shall hold a public hearing, after which it will determine whether it should declare a dog vicious and, if so declared, what remedy is appropriate.

88-6.3 Exceptions

A dog shall not be declared vicious if the Hearing Authority determines any of the following:

- The person's skin was not broken.
- The person who was bitten was willfully trespassing, committing a crime, or attempting to commit a crime on the premises occupied by the dog's keeper or owner.
- The dog was being teased, tormented, abused, or assaulted by the injured person or animal prior to attacking or biting.
- The dog was protecting or defending a human being in its immediate vicinity from attack or assault.

88-6.4 Remedies

Upon its finding that the dog is vicious, the Hearing Authority shall order one of the following remedies; permanent restraint, destruction in accordance with MSPCA guidelines, or any other remedy authorized by applicable law.

- Permanent Restraint Order is an order that the dog must at all times while on its keeper's or owner's property be kept within the keeper's or owner's house or a secure enclosure. The secure enclosure shall be a minimum of five feet wide, ten feet long, and five feet in height, with a horizontal top covering the entire enclosure; shall be constructed of not less than nine (9) gauge chain link fencing; the floor shall be not less than three (3) inches of poured concrete; with the bottom edge of fencing embedded in the concrete; shall be posted with a clearly visible warning sign including a warning symbol; must contain and provide protection from the elements; and shall comply with all applicable building codes and with the Zoning Bylaws of the Town of North Andover. In addition, the keeper or owner of the dog shall annually provide proof to the Town Clerk of a liability insurance policy of at least One Hundred Thousand (\$100,000) Dollars for the benefit of the public safety; and whenever the dog leaves its keeper's or owner's property, it must be muzzled and restrained on a lead no longer than six feet or confined in an escape-proof enclosure.
- Destruction is an order that the dog be destroyed in accordance with MGL Chapter 140 and Massachusetts Society for the Prevention of Cruelty of Animals guidelines.

88-7 Penalties

88-7.1 The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each violation of this chapter in the same calendar year as follows:

a. For a violation of Section 88-3.2, Section 88-3.3.2, Section 88-3.3.3, Section 88-3.3.4, Section 88-3.3.5, Section 88-3.3.6:

First offense: \$25
Second offense: \$50
Third and subsequent offense: \$100

b. For a violation of Section 88-3.3.1, and Restraining Orders Issued under Sections 88-4.2 or 88-6.4

First offense: \$50
Second offense: \$100
Third and subsequent offense: \$150

c. For a violation of any other section:

First offense: \$25
Second offense: \$50
Third and subsequent offense: \$100

In the case of a continuing offense, each day shall constitute a separate violation.

88-7.2 Reimbursement of Costs

If the ACO confines a dog and the animal owner does not pay all fees directly to the kennel or veterinary clinic, then the dog's keeper must reimburse the Town of North Andover for any expenses incurred in boarding that dog. If the dog has not been licensed, the keeper must obtain a license and pay any applicable late fee before the dog can be released.

88-8 Miscellaneous

88-8.1 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of this bylaw, and MGL Chapter 40, §21D. The North Andover Police Chief or his designee, including the Animal Control Officer, and any North Andover Police Officer shall have authority to enforce the provisions of this chapter.

88-8.2 Orders of the ACO and Hearing Officer

Any orders of confinement, muzzling or disposition issued by the ACO or the Hearing Officer may be in addition to the fines authorized by this chapter.

88-8.3 Non-Waiver of Statutory Remedies

The provisions of this chapter are intended to be in addition to and not in lieu of those contained in MGL Chapter 140, §136A, et seq., as amended by Chapter 193 of Legislative Acts of 2012; nothing contained in this chapter shall deprive the Town from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in §157, as amended. To the maximum extent possible, the provisions of this chapter shall be deemed to be consistent with and/or supplementing those contained in MGL Chapter 140, as provided in §136A, et seq., as amended.

Chapter 92

Eminent Domain

[HISTORY: Adopted by the Town of North Andover as Chapter 92 of the General Bylaws. 2008 Annual Town Meeting Article 27 – Approved by Attorney General September 17, 2008.]

§ 92-1 Private parcel(s) to the Town of North Andover

§ 92-2 Creation of Facility for Actual Public Use

The authority of the Town of North Andover and its agencies of local government, as reserved to localities under Chapter 79 of Massachusetts General Law, to seize privately owned parcels against the expressed will of the owner through the use of eminent domain procedures, including easements, shall, in light of the Kelo vs. New London U.S. Supreme Court decision, be specifically further limited as follows:

§ 92-1. Private Parcel(s) to the Town of North Andover

To only those proposed taking actions incorporating the transfer of a private parcel(s) to the Town of North Andover or any of its authorized agencies of local government, and under no circumstances to another private party, and;

§ 92-2. Creation of Facility for Actual Public Use

To only those proposed taking actions whose purpose is the creation of a facility for actual public use and ownership, to include public open spaces, parks, watershed protection districts, roadways, and other similar public projects, and never for the purposes of economic development or the enhancement of the local tax base.

Nothing in this bylaw shall limit the authority of the Town of North Andover or its authorized agencies of local government to seize property that is endangering the health and safety of its residents, or which could otherwise be seized or foreclosed upon for tax delinquency in accordance with the provisions of Chapter 60 of Massachusetts General Law, or which is seized with the consent of the owner.

Chapter 101

FEES

[HISTORY: Adopted by the Town of North Andover 4-24-82 Annual Town Meeting, Article 14. Amendments noted where applicable.][Amended:Article 49 2007 – Delete Section 101-2 in its entirety- Annual Town Meeting – Approved by Attorney General October 2, 2007]

§ 101-1 Fees Enumerated

§ 101-2 Residuals Management Facility - Fee in Lieu of Taxes (Deleted Article 49 – May 21, 2007 Annual Town Meeting)

§ 101-3 Town Clerk Fees

§ 101-1 Fees Enumerated

[Amended Special Town Meeting November 17, 2003 – Article 12 - Attorney General Approval – January 22, 2004] [Amended Annual Town Meeting May 10, 2005 – Article 20 – Attorney General Approval – August 29, 2005][Deleted and Replaced-Article 10 June 6, 2006 Annual Town Meeting- Approved by Attorney General October 16, 2006]

The following fees shall be established by the Board of Selectmen:

A. Fees for automatic amusement device licenses pursuant to Massachusetts General Laws c. 140, sec. 177a.

B. Fees for sealing of weights and measures services pursuant to Massachusetts General Laws c. 98, sec. 56.

Until a new fee is established by the Board of Selectmen, the Town shall continue to charge the same fees that were in effect immediately prior to the effective date of this bylaw.

§ 101-2 Residuals Management Facility - Fee in Lieu of Taxes. - Deleted

[Amended Annual Town Meeting May 11, 1998 – Article 17 – Attorney General Approval – October 20, 1998][Section 101-2 Deleted in its Entirety-Article 49 – May 21, 2007 Annual Town Meeting]

1. Any private operator of the Facility (or its substantial equivalent) shall pay to the Town of North Andover the sum of \$5.58 multiplied by the number of tons of residual waste received per year at the Facility.

2. The fee shall be collected and paid as follows:

a. Within thirty days after the first quarter of operations, the operator of the Facility shall mail to the North Andover tax collector a notice indicating the number of tons of waste residuals received at the Facility within that quarter. The tax collector shall

promptly mail to the operator of the Facility a notice indicating the amount of fee due for that quarter, based on \$5.58 per ton of waste residuals received during that quarter.

b. Within thirty days of receipt of the notice from the tax collector, the operator shall pay the fee specified in the notice.

c. If the operator objects to the amount of the fee, within thirty days of receipt of the notice, the operator may file an objection with the North Andover Board of Assessors, provided that the operator has paid the fee pursuant to the preceding subparagraph (b). The operator may object to the fee on the basis of one or more of the following:

i. Based upon applicable laws, regulations, and practices, the taxable value of the facility is less than the currently estimated nine \$9,969,238;

ii. The amount of taxes that would be paid if the facility were taxable is less than the currently estimated \$162,997.04 per year;

iii. The volume of waste residuals received at the facility is more than the currently estimated 29,200 tons per;

iv. The fee amount is otherwise not substantially equivalent to the amount of taxes that would be assessed if the Facility were taxable.

d. If the Board of Assessors resolves one or more of the foregoing objections in favor of the operator, it shall reduce the fee so that the fee multiplied by the number of tons of waste residuals received at the facility in that quarter does not exceed the amount of taxes that would be lawfully assessed if the facility were taxable, based on the value of the Facility and the tax rates in effect at the time of the objection. The Board of Assessors shall provide prompt notice of such fee reduction to the owner and operator of the Facility, the tax collector, and the Town Manager. The recalculated fee shall govern the fee amount for the remainder of the fiscal year in question. In addition, the fee assessed for the subsequent quarter shall be reduced by the amount of the excess payment for the first quarter.

e. The tax collector shall assess the fee in such a manner that the timing of the procedures identified above coincides as much as possible with the timing of procedures for the assessment of real estate taxes in North Andover.

3. Notwithstanding the preceding provisions, at the expiration of three years of actual operation, the Board of Assessors shall recalculate the fee to ensure that the fee multiplied by the number of tons of waste residuals received at the facility is equivalent to the amount of taxes that would be lawfully assessed if the facility were taxable, based on the value of the Facility and the taxation rates in effect at the time of recalculation, and the amount of waste received at the Facility during the preceding year. The Assessor shall provide prompt notice of such fee alteration to the owner and operator of the Facility, to the tax collector, and to the Town Manager. The

recalculated fee shall govern for the next three years, subject to the provisions for objection and recalculation set forth in paragraph 2.

4. Notwithstanding the preceding provisions, under no circumstances shall the fee exceed any limits established by the Department of Environmental Protection. Should the Department of Environmental Protection establish such limits, and should the fee exceed those limits, the Board of Assessors shall alter the fee so that it does not exceed any such limits. The Board of Assessors shall provide prompt notice of such fee reduction to the owner and operator of the Facility, to the tax collector, and to the Town Manager.
5. The provisions of this bylaw are severable, and should a court of final jurisdiction determine that any provisions are unlawful, any provisions that have not been declared unlawful shall remain in full force and effect.

SECTION 101-2 DELETED IN ITS ENTIRETY – OCTOBER 2, 2007

§ 101-3 Town Clerk Fees.

[Amended Special Town Meeting November 17, 2003 – Article 12 - Attorney General Approval – January 22, 2004]

<u>ITEM</u>	<u>FEE</u>
Vital Records – Certified	\$8.00
Vital Records - Affidavit of Correction	\$25.00
Filing Delayed Vital Record	\$25.00
Recording "Out of Commonwealth" Vital Events	\$25.00
Genealogy-Written	\$5.00
Intention of Marriage	\$40.00
Business Certificate (D/B/A)-Issuance	\$40.00
Change of D/B/A - Residence, Discontinuance	\$15.00
Certificate Practice of Podiatry, Optometry	\$25.00
Certificate Practice Physician, Osteopath	\$25.00
Filing Declaration of Trust or Amendment	\$25.00
Section 22 Chapter 166 Recordings (Poles)	\$40.00
Flammable Storage Tank Registration (per site)	\$150.00
Raffles and Bazaars (Non-Profits Only)	\$50.00
Street Listing Book	\$25.00
Filing Bond - Blasting Operations - C. 148 §40	\$25.00
Filing Bond - Fireworks Storage - C. 148 §40	\$25.00
Entertainment Licenses – 7 Day	\$100.00
Entertainment License – Sunday	\$ 20.00

A review and adjustment of these fees may be made by the Board of Selectmen whenever deemed necessary.

Chapter 103

[HISTORY: Adopted by the Town of North Andover as Chapter 103 of the General Bylaws. 2012 Annual Town Meeting Article 6 – Approved by Attorney General October 9, 2012.]

- § 103-1 Purpose/Authorization
- § 103-2 Applicant's Submission to Fingerprinting by the North Andover Police Department
- § 103.3 Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results
- § 103-4 Reliance on Results of Fingerprint-Based Criminal Record Background Checks
- § 103-5 Compliance with Law, Regulation, and Town Policy
- § 103.6 Fees

FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS

§103-1 Purpose/Authorization

In order to protect the health, safety, and welfare of the inhabitants of the Town of North Andover, and as authorized by Chapter 256 of the Acts of 2010, this by-law shall require

a) applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in Section 103.2 below to submit to fingerprinting by the North Andover Police Department,

b) the Police Department to conduct criminal record background checks based on such fingerprints, and

c) the Town to consider the results of such background checks in determining whether or not to grant a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this by-law.

§103-2 Applicant's Submission to Fingerprinting by the North Andover Police Department

Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the North

Andover Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- Liquor Licensee
- Manager or Alternate Manager of a Liquor Licensee
- Hawker and Peddler
- Hackney Carriage (Taxi) Operator
- Solicitors and Canvassers
- Dealers in Junk, Second-Hand Articles and Antiques
- Second-Hand Motor Vehicle Dealers
- Ice Cream Truck Vendor

At the time of fingerprinting, the Police Department shall notify the individuals fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

§103-3 Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results

The Police Department shall transmit fingerprints it has obtained pursuant to Section 103-2 of this by-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in Section 103-2.

As further detailed in the Town's policy applicable to Town licensing-related criminal record background checks, the Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal record background check and supply the applicant the opportunity to complete, or challenge the accuracy of, the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI identification records. In no event shall the Police Department render a suitability evaluation pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with the Town's policy applicable to Town licensing-related criminal record background checks.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall in addition render to the licensing authority its evaluation of the applicant's suitability for the proposed occupational activity based upon the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability. The Police

Department shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

§ 103-4 Reliance on Results of Fingerprint-Based Criminal Record Background Checks

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in Section 103-2. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

§ 103-5 Compliance with Law, Regulation, and Town Policy

Implementation of this by-law and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

§ 103-6 Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be set by the Board of Selectmen. A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B ½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

Chapter 105

FIREARMS AND EXPLOSIVES

[HISTORY: Adopted by the Town of North Andover as Ch. 8 Sec. 8.2 of the General Bylaws. Amendments noted where applicable.]

§ **105-1 Prohibited Use**

§ **105-1 Prohibited Use.**

No person shall fire or discharge any firearms or explosives of any kind on private property, except with the consent of the owner of legal document thereof; provided, however, that this chapter shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his duties.

CHAPTER 106

FIRE PREVENTION

[HISTORY: Adopted by the Town of North Andover as Chapter 106 by Article 21 Annual Town Meeting May 12, 1998 – Approved by Attorney General October 20, 1998. Amendments noted where applicable.]

The Fire Prevention Code for the Town of North Andover shall consist of this chapter and Chapter 69, Alarm Systems, and Chapter 109, Fire Lanes, together with the regulations of the Massachusetts Board of Fire Prevention Regulations, set forth in 527 CMR and Chapter 7, Fire Resistent Materials and Construction, and Chapter 9, Fire Protection Systems, of the Massachusetts Building Code, set forth at 780 CMR.

[Added by Article 21 Annual Town Meeting May 12, 1998 – Approved by Attorney General October 20, 1998]

Without intending to limit the generality of the foregoing, the Fire Prevention Code for the Town of North Andover and penalties therefore may be enforced by the non-criminal disposition method in accordance with G.L. Ch 40 S. 21D. The penalties set forth herein shall apply to each separate offense or violation of the code. The Fire Chief or his/her designee shall be the enforcing person for the Code. The penalty for violation of the Code under the non-criminal disposition method shall be as follows:

First Offense	\$25.00
Second and subsequent offenses of the same violation	\$50.00

An enforcing person taking notice of a violation may give to the offender a written notice to appear before the clerk of the Lawrence District Court within twenty-one days of the date of the notice in accordance with the provisions of G.L. c.40 §21D. Any person so notified may so appear and confess the offense charged, in person, or by mailing payment to the Town Clerk in the amount of the penalty. If a person so notified desires to contest the violation, he may, within twenty-one days of the date of the notice request a hearing before the District Court, in accordance with the procedures set forth in G.L. Chapter 40 §21D.

Chapter 107

FIRE HYDRANTS

[HISTORY: Adopted by the Town of North Andover as Ch. 5, Sec. 5.3 of the General Bylaws. Amendments noted where applicable.]

- § 107-1 **Permission to Open**
- § 107-2 **Obstruction or Alteration**
- § 107-3 **Failure to Comply**

§ 107-1 **Permission to Open.**

[Amended: Annual Town Meeting May 4, 1987, Article 41]

No person shall open any hydrant of the water system of the town without permission previously obtained from the Director of Public Works; provided, however, that nothing in this section shall be construed to prohibit the use of hydrants and water by the Chief of the Fire Department or the person acting in his stead, in case of fire.

§ 107-2 **Obstruction or Alteration.**

[Added: Annual Town Meeting May 4, 1987, Article 41]

A. No person, except those authorized by the Director of Public Works or the North Andover Fire Chief, shall obstruct the access to or impede the operation of or alter the appearance of any hydrant of the water system of the town.

B. No planting or structure shall be maintained for a distance of a ten-foot radius from the top of the hydrant.

§ 107-3 **Failure to Comply**

[Added: Annual Town Meeting May 4, 1987, Article 41]

Any obstruction or alteration shall be corrected to comply with the bylaw. Any costs incurred for correction shall become the burden of the person responsible for such obstruction or alteration and shall, if unpaid, become a lien upon that person's property.

Chapter 109

FIRE LANES

[HISTORY: Adopted by the Town of North Andover April 27, 1985 Annual Town Meeting, Article 53. Amendments noted where applicable.]

§ 109-1 **Determination of Necessity; Installation**

§ 109-2 **Obstruction of Private Ways**

§ 109-3 **Designation of Fire Lanes**

§ 109-4 **Enforcement**

§ 109-5 **Towing of Vehicles**

§ 109-1 **Determination of Necessity; Installation.**

Upon determination by the Fire Chief that fire lanes are necessary for the protection of the lives or property of the public in an area to which the public has access, the owner or the person having control of such premises shall provide, install and maintain “No Parking-Fire Lanes” signs and striping in the location designated by the Fire Chief.

§ 109-2 **Obstruction of Private Ways.**

It shall be unlawful to obstruct or block a private way to an area to which the public has access so as to prevent fire apparatus or other emergency equipment from gaining access to any building thereon.

§ 109-3 **Designation of Fire Lanes**

Dimensions; Properties Requiring Them

It shall be unlawful to obstruct or park any vehicle in any fire lane, such fire lane to be designated by the Chief of the North Andover Fire Department. These fire lanes to be posted and marked as such. Said fire lanes shall include a distance of twelve (12) feet from the curb at a sidewalk or in the absence of sidewalks and curbing, the distance shall be eighteen (18) feet from the building. The properties involved shall be shopping centers, apartment complexes, hospitals, nursing homes, theaters and schools or other areas to which the public has access.

§ 109-4 **Enforcement.** [Amended by Article 23, ATM May 12, 1998 Approved by Attorney General October 20, 1998]

These traffic regulations are enforced by the Police Department of the Town of North Andover subject to fine by issuance of a citation (ticket).

§ **109-5 Towing of Vehicles**

 If vehicles are impeding access of emergency vehicles, the Police Department shall have the authority to tow such vehicles to a storage facility designated by the North Andover Police Department. Such towing charge to become the responsibility of the owner of towed vehicle.

Chapter 112

FOOD SERVICE ESTABLISHMENTS

[HISTORY: Adopted by the Town of North Andover as Ch. 6, Sec. 6.5 of the General Bylaws. Amendments noted where applicable. [Section 112-2 Adopted May 21, 2013 Annual Town Meeting – Approved by Attorney General September 19, 2013]

§ **112-1 Authority of Selectmen**

§ **112-2 Preparation and/or Retail Sale of Food or Beverage**

§ **112-1 Authority of Selectmen.**

The Selectmen may, for the purpose of controlling and abating noise, promulgate orders, not inconsistent with any governing statute, establishing the hours during which any holder of a common victual's license may open his licensed premises to the public.

§ **112-2 Preparation and/or Retail Sale of Food or Beverage**

112-2-1 The Board of Selectmen may grant licenses to persons whose principal business is to prepare and sell food or beverage at retail who are not otherwise licensed as a common victualler. No person who is eligible for such a license shall conduct such business without being so licensed. This bylaw shall not require the Selectmen to grant said license if, in their opinion, the public good does not require it. For these purposes, in determining whether the public good is served, the Selectmen shall ascertain whether the travelling public will be inconvenienced in its use of the public ways and sidewalks, whether the business has sufficient parking, and whether the public safety is protected.

112-2.2 The Board of Selectmen shall establish an annual fee for such licenses.

112-2.3 The Board of Selectmen may adopt rules and regulations to govern the administration of the licensing process, and in doing so, may impose such terms and conditions upon granting such licenses as it may consider appropriate.

112-2.4 Provided, any person conducting said principal business as of the day this bylaw takes effect may continue to do so for up to 90 days, by the end of which time, said business shall be discontinued unless a license has by then been issued. In entertaining an application, the Selectmen shall apply the standards set forth in Section 112-2.1 insofar as is practicable considering that the applicant has been operating prior to the Town enacting said bylaw.

Approved by Attorney General September 19, 2013 – Posted September 23, 2013

CHAPTER 113

FORTUNE TELLERS

[HISTORY: Adopted by the Town of North Andover as Chapter 113 of the General Bylaws – Annual Town Meeting May 12, 2010 Article 36 – Approved by Attorney General October 9, 2010. Amendments noted where applicable.]

- § 113-1 Definition
- § 113-2 License Required – Qualifications of Applicant
- § 113-3 Fee – Transferability
- § 113-4 Revocation
- § 113-5 Fines for Failure to Procure

§ 113-1 Definition

Any person going under the title of fortune teller, reader, adviser or seer, medium, healer or spiritualist, palm reader, card reader or psychic shall be deemed a fortune teller, for the purpose of this bylaw

§ 113-2 License Required – Qualifications of Applicant

It shall be unlawful for any person to engage in the business of fortune teller without first obtaining a license from the Licensing Commission. Application for licenses shall be made on forms to be provided by the license commission and shall include the applicant's complete identification, signature and proposed method of operation. A statement shall be submitted with any application from the Criminal History Systems Board pursuant to the Criminal Record Information Act setting forth the criminal record, if any, of the applicant.

§ 113-3 Fee – Transferability

The fee for each license granted under this section shall be \$50.00 dollars (\$50.00) annually and the license shall not be transferred or assigned

§ 113-4 Revocation

The License Commission may revoke such license because of any violations of this bylaw or any other town bylaw.

§ 113-5 Fines for Failure to Procure

Whoever engages in fortune telling for money, unless licensed under this bylaw, shall be subject to a fine of one hundred dollars (\$100.00). Fines will be enforced by non-criminal disposition pursuant to Massachusetts General Laws Chapter 40, Section 21D.

Chapter 115

GARBAGE, RUBBISH AND REFUSE

[HISTORY: Adopted by the Town of North Andover 11-24-80 Special Town Meeting, Article 1. Amendments noted where applicable.]

- § 115-1 Weekly Collection
- § 115-2 Placement of Refuse for Pickup
- § 115-3 Commercial, Business or Industrial Complex
- § 115-4 Responsibility of Building Owners
- § 115-5 Refuse Restricted Activity
- § 115-6 Penalties

§ **Weekly Collection.**

[Amended: Annual Town Meeting May 9, 1990, Article 27] [Amended Article 22 2001 Annual Town Meeting. Approved by Attorney General September 12, 2001]

The Division of Public Works shall each week collect the refuse and trash of:

- A. Each detached single-family residence and each multiple dwelling that:
 - 1. Contains fewer than nine (9) living units; and
 - 2. Is not part of any apartment or condominium complex containing nine (9) living units or more.
 - 3. Notwithstanding the foregoing, the Town will provide customary residential trash pick-up for the residential units of Village Green at North Andover Condominium Trust, which are located on duly excepted public ways. Notwithstanding the forgoing, the Town will provide customary residential trash pick up for the owner occupied Town House Homes of Andrew Circle. Townhouse Homes is a non-profit organization of 8 residential units per building (3 buildings total).
- B. Each building used for commercial, business or industrial purposes where the amount of refuse produced is no more than eight (8) thirty gallon barrels per week and the building is not commercial, business or industrial complex.

§115-2 Placement of Refuse for Pickup

Service will be provided only if the refuse and trash is placed on the side of the highway in front of said residence or multiple dwelling or building.

§115-3 Commercial, Business or Industrial Complex

Any building or aggregation of buildings (such as a shopping mall, industrial park, office complex or other like development) containing four (4) or more businesses, industries or commercial enterprises shall be deemed to constitute a commercial, business or industrial complex for purposes of this chapter if legal title to the building or aggregation of buildings is in single, joint or common ownership.

§115-4 Responsibility of Building Owners.

It shall be the duty of each owner of a multiple-dwelling building or apartment or condominium complex containing nine (9) living units or more and each owner of a building utilized for commercial, business or industrial purposes which does not qualify for trash pickup under the criteria set forth in Section 115-B to cause to be removed at his own cost and expense all refuse and trash produced therein.

§115-5 Refuse Restricted Activity

[Amended: Annual Town Meeting May 3, 1993, Article 42]

To be in compliance with the State solid waste facility regulation 310 CMR 19.017 & DPW's Guidance Document #7 (DSWM Guidance SWM-7-9/92), the Town of North Andover enacts a mandatory bylaw, which states as of April 1, 1993, the following will not be allowed in the garbage, rubbish and refuse/trash.

Glass Containers: Glass bottles and jars (soda-lime glass) but excluding light bulbs, Pyrex cookware, plate glass, drinking glasses, windows, windshields and ceramics.

Metal Containers: Aluminum steel or bi-metal beverage and food containers, including scrap metal.

Yard Waste: Grass clippings, weeds, garden materials, shrub trimmings, and brush 1" or less in diameter (excluding diseased plants);

Leaves: Deciduous and coniferous leaf deposition;

Lead Acid/Batteries: Lead-acid batteries used in motor vehicles or stationary applications;

White Goods: Large appliances including: refrigerators, freezers, dish washers, clothes dryers, gas or electric ovens and ranges, and hot water heaters;

Whole Tires: Unshredded motor vehicle tires of all types. (A shredded tire is a tire which has been cut, sliced, or ground into four or more pieces such that the circular form of the tire has been eliminated.)

§115-6 Penalties

[Amended ATM 5-3-93, Article 42]

Any or all of the items in 115-5 commingled with garbage, rubbish, or refuse will be reason for the Division of Public Works or its agents to refuse to pick up such commingled items from that dwelling.

Chapter 117

GAS STATIONS

[HISTORY: Adopted by the Town of North Andover as Ch. 6, Secs. 6-4 and 6.6 of the General Bylaws. Amendments noted where applicable.]

§ 117-1 Hours of operation

§ 117-2 Types of permitted stations

§ 117-1 **Hours of operation**

For the purpose of controlling and abating noise, no automobile service station within the town shall conduct business, except in case of an emergency, between the hours of 10:00 p.m. and 5:30 a.m.

§ 117-2 **Types of permitted stations**

[Amended: STM 12-10-87, Article 8; ATM 5-3-93, Article 41]

Gasoline stations may be operated as either full service, where gasoline is pumped by employees holding the nozzle; self-service where gasoline is generally pumped by the customer holding the nozzle; or a combination of full service and self-service, provided that such gasoline stations meet all applicable requirements of law and provided that in conjunction with self-service pumps or islands an employee is on the premises to aid those in need of assistance.

Chapter 122

HAWKERS AND PEDDLERS

[HISTORY: Adopted by the Town of North Andover as Ch 6, Sec. 6.1 of the General Bylaws.
Amended: ATM May 23, 1995 Article 58] [Amended: ATM 5-13-96, Article 45]

- § 122-1 License Required; Exception
- § 122-2 Special Events – Prohibited Sales
- § 122-3 Enforcement
- § 122-4 Violations/Penalty

§ 122-1 **License Required; Exception.**

No person shall go through the streets or ways of the town as a hawker or peddler, selling or exposing for sale, fruits or vegetables, without first obtaining a written license from the Selectmen of the town; provided that this chapter shall not apply to a person engaged in the pursuit of agriculture who peddles fruits or vegetables.

§ 122-2 **Special Events – Prohibited Sales.**

[Amended: Annual Town Meeting May 13, 1996, Article 45]

No person, during any parade, festival, concert, sporting event or other public event shall use, sell, or distribute on any street, sidewalk, or public way of the town or upon any property owned by the town, a product known as “silly string” or any similar product sold or used for amusement that ejects a soft rubbery substance; any aerosol can that ejects paint, shaving cream, foam or makes loud noises or any explosive device.

Parades

[Amended: ATM May-13-96, Article 45]

Any hawkers or peddlers selling goods, wares, and merchandise in conjunction with or in the vicinity of any parade, including, without limitation the Fourth of July Parade, in the Town of North Andover, shall be subject to the following restrictions.

1. Hawkers and peddlers shall at all times remain a distance of at least thirty (30) from the center-line of the street or roadway of the parade route.
2. No explosive devices such as hand thrown Caps or similar products capable of making explosive noises shall be sold.

3. All hawkers and peddlers shall display their license number in a conspicuous manner at all times.
4. All hawkers and peddlers shall make any goods, wares or merchandise, which they offer or intend to offer for sale, available for inspection by the Police or Fire Chiefs or their designees.

§ **122-3 Enforcement.**

The Enforcement Agent for the purpose of this bylaw shall be the Chief of Police or his designees.

§ **122-4 Violations/Penalty.**

Any person or organization violating any of the provisions of this bylaw shall be subject to a fine of three hundred (\$300) dollars, and each day a violation occurs shall be considered a separate offense. This penalty may be enforced under the provisions of the non-criminal provisions contained in Article 1, Section 4, of the Town's General Bylaws.

Chapter 125

HISTORIC DISTRICT

[HISTORY: Adopted by the Town of North Andover May 4, 1987 Annual Town Meeting, Article 15. Amendments noted where applicable.]

- § 125-1 Title
- § 125-2 Purpose
- § 125-3 Establishment
- § 125-4 Historic District Commission
- § 125-5 Powers and Duties of Commission
- § 125-6 Limitations and Exemptions
- § 125-7 Procedures
- § 125-8 Town to be Subject to Provisions
- § 125-9 Amendments
- § 125-10 Severability
- § 125-11 When Effective

§ 125-1 **Title**

This chapter shall be known and may be cited as the “North Andover Old Center Historic District Bylaw” and is adopted pursuant to Chapter 40C of the General Laws of the Commonwealth of Massachusetts, as amended.

§ 125-2 **Purpose**

The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of distinctive historical and architectural characteristics of buildings and places in the Old Center area of the Town of North Andover through the maintenance and improvement of such buildings and places and the encouragement of appropriate and compatible design in this area.

§ 125-3 **Establishment.**

There is hereby established under the provisions of Chapter 40C of the General Laws an historic district to be known as the “Old Center Historic District” which district shall be bounded as shown on the map entitled “North Andover Old Center Historic District, 1987” attached and made part of this chapter.¹

¹ Editor’s Note: The Historic District Map is on file in the office of the Town Clerk.

§ **125-4 Historic District Commission.**

There is hereby established under Chapter 40C of the General Laws an Historic District Commission consisting of seven (7) members and two (2) alternate members, all residents of the Town of North Andover, appointed by the Board of Selectmen; including one (1) member, where possible, from two (2) nominees submitted by the North Andover Historical Commission; one (1) member, where possible, from two (2) nominees submitted by the North Andover Historical Society; one (1) member, where possible from two (2) nominees submitted by the Greater Lawrence Board of Realtors; one (1) member, where possible, from two (2) nominees, submitted by the Massachusetts State Chapter of the American Institute of Architects; and one (1) member who is both a resident of and owner of property in the Old Center Historic District. The Board of Selectmen shall submit written requests for nominations to the organizations named herein. If no nomination has been made within thirty (30) days after submitting a request, the Selectmen may proceed without waiting for the requested nomination. When the Commission is first established, three (3) members shall be appointed for three-year terms, two (2) members and one (1) alternate member shall be appointed for two-year terms and two (2) members and one (1) alternate member shall be appointed for one-year terms.

Successors shall each be appointed for a term of three (3) years. Vacancies shall be filled within sixty (60) days by the Board of Selectmen by appointment for the unexpired term. In the case of absence, inability to act or unwillingness to act because of self-interest by a member, the Chairman may designate an alternate member of the Commission to act for a specified time. If any member is absent from three (3) consecutive Commission meetings, the Chairman may appoint an alternate member as a replacement to serve for the remainder of that member's term, whereupon the Board of Selectmen shall appoint a new alternate member. Each member and alternate member shall continue in office until his or her successor is duly appointed. All members and alternate members shall serve without compensation. The Commission shall elect annually a Chairman and a Vice Chairman from its own number and a Secretary from within or without its number. Meetings of the Commission shall be held only if attended by a quorum of at least five (5) members, including alternate members designated to act as members. If the Chairman is absent from a meeting of the Commission, the Vice Chairman shall act as Chairman. Decisions of the Commission at a meeting require a majority vote of the members, including designated alternates, who are present at the meeting.

§ **125-5 Powers and Duties of Commission.**

A. The Commission shall have all the powers and duties of Historic District Commissions as provided by the Historic District Act, General Laws, Chapter 40C, and by subsequent amendments thereto, unless specifically limited by this chapter. The Commission may adopt rules and regulations not inconsistent with the provisions of the Historic District Act. The Commission may, subject to

appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work.

B. The Commission shall have control over new construction, reconstruction, alterations, relocation and demolition of all exterior architectural features of buildings and structures within the Old Center Historic District which are clearly visible from any public street, public way or public land within the district, except as limited by this chapter. The terms used in this chapter shall have meanings set forth in Massachusetts General Laws C.40C, Sec. 5. For purposes of this chapter, any structure partially within the Historic District shall be considered wholly within the district.

C. In passing upon matters before it the Commission shall consider, among other things, the historical and architectural value and significance of the site, building or structure, the general design arrangement of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area.

§ 125-6 Limitations and Exemptions.

A. The Commission shall not act to prevent or unnecessarily delay new construction, reconstruction or alterations except for the purpose of preventing developments incongruous to historical considerations and architectural features of value, viewed in relation to the surrounding area.

B. The following are exempt from review or control by the Commission (except as specifically noted):

- 1.** Ordinary maintenance, repair or replacement of any external architectural features if this does not involve a change in design or materials.
- 2.** Actions required by a duly authorized public officer necessary for public safety in the event of an unsafe or dangerous conditions.
- 3.** Landscaping with plants, trees, or shrubs.
- 4.** Terraces, walks, sidewalks, driveways and other similar structures, provided that the structure is at grade level. (Parking lots require Commission review.)
- 5.** Storm doors and windows, screen doors and windows, window air conditioners, residential light fixtures and conventional antennae no larger than six (6) feet in any dimension. (Dish antennae and solar collectors require Commission review.)
- 6.** Paint color and roofing material.
- 7.** Temporary signs or structures to be in use for not more than ninety (90) days.

8. Signs used for residential occupation or professional purposes, of not more than one(1) square foot in area, provided that no more than one (1) sign is displayed on or near any one (1) building or structure and the sign consists of lettering painted on wood without a symbol or trademark. (Signs for commercial and institutional purposes require Commission review.)

9. Reconstruction substantially similar in exterior design of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other calamity, provided that such reconstruction is begun within one (1) year thereafter and is carried forward with due diligence.

10. All interior architectural features, and those exterior architectural features which are not clearly visible from any public street, public way or public land within the Old Center Historic District.

§ 125-7 Procedures.

A. Except as this chapter provides in Section 125-6, no building or structure within the Historic District shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration. Nor shall any building permit for demolition be issued for any building or structure within the Historic District until the certificate required by this section has been issued by the Commission.

B. Applications for certificates shall be made in triplicate, one (1) copy being filed with the Historic District Commission, one (1) with the Building Inspector and one (1) with the Town Clerk. Applications shall include plans and elevations, drawn to scale, detailed enough to show architectural design of the structure and its relation to the existing building, and other materials deemed necessary by the Commission. Plot and site plans should be filed when an application is made for improvements involving applicable landscape features such as walls and fences. In case of demolition or removal, the application must include a statement of the proposed condition and appearance of the property thereafter.

C. Within fourteen (14) days of the filing of an application for any certificate, the Commission shall determine whether the application involves any features which are subject to approval by the Commission.

D. If the application requires the Commission's review or, at the request of the applicant, the Commission shall hold a public hearing, unless waived according to the provision of Chapter 40C of the General Laws as amended. Public notice of the time, place and purpose of the hearing shall be given at least fourteen (14) days in advance and the Commission must notify by mail affected parties as provided in Chapter 40C of the General Laws as amended.

E. The Commission shall decide upon the determination of any application within sixty **(60)** days of its filing or within such further time as the applicant may allow in writing.

F. A certificate of appropriateness shall be issued to the applicant if the Commission determines that the proposed construction or alteration will be appropriate for or compatible with the preservation or protection of the Historic District. In the case of a disapproval of an application for a certificate of appropriateness, the Commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determinations, accompanied by a copy of the reasons therefor as set forth in the records of the Commission, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design. Prior to the issuance of any disapproval the Commission may notify the applicant of its proposed action, accompanied by recommendations of changes in the applicant's proposal which, if made would make the application acceptable to the Commission. If, within fourteen **(14)** days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall issue a certificate of appropriateness to the applicant.

G. Upon request, the Commission may issue a certificate of non-applicability to any applicant whose request does not require Commission approval.

H. If an application is deemed inappropriate or if application is made for a certificate of hardship, the Commission may issue a certificate of hardship if conditions especially affecting the building or structure involved, but not affecting the Historic District generally, would make failure to approve an application, involve a substantial hardship, financial or otherwise, to the applicant and approval would not involve substantial detriment to the public welfare. A certificate of hardship shall also be issued in the event that the Commission does not make a determination of an application within the time specified in Subsection E.

I. Each certificate shall be dated and signed, and the Commission shall keep a permanent record of its determinations and of the vote of each member participating therein, and shall file a copy or notice of certificate and determinations of disapproval with the Town Clerk and the Building Inspector.

J. Any person aggrieved may, within twenty **(20)** days of the decision by the Commission, appeal to a superior court sitting in equity. The Commission must pay costs if it appears to the court that the Commission has acted with gross negligence, bad faith or malice.

K. Violation of any of the provisions of this chapter shall incur a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) as determined by the Commission, each day constituting a separate offense.

§ **125-8 Town to be Subject to Provisions.**

The Town of North Andover shall be subject to the provisions of this chapter notwithstanding any town bylaw to the contrary.

§ **125-9 Amendments.**

This chapter may be amended from time to time by a two-thirds vote of the Town Meeting, subject to the procedures as set forth in Massachusetts General Laws C.40C, Sec. 3.

§ **125-10 Severability.**

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

§ **125-11 When Effective**

Following Town Meeting approval, this chapter takes effect immediately when the following conditions have been met: approval by the Attorney General of the Commonwealth; and filing of a map of the boundaries of the Historic District with the North Andover Town Clerk, the North Andover Building Inspector and the Registry of Deeds for North Essex County.

Chapter 127

JUNK DEALERS

[HISTORY: Adopted by the Town of North Andover as Chapter 6, Section 2 of the General Bylaws. {Amended: Deleted and Replaced June 6, 2006 Annual Town Meeting – Article 10 – Approved by Attorney General October 16, 2006} [Amended by Article 35 2010 Annual Town Meeting Approved by Attorney General [Amendments noted where applicable.]

§ 127-1 License Required; Fee; Duration

Chapter 127

JUNK DEALERS / DEALERS OF SECONDHAND PRECIOUS METALS OR GEMS

§ 127-1 License Required; Fee; Duration.

No person shall keep a shop for purchase, sale or barter of junk, old metal or secondhand articles, or shall go from house to house collecting or procuring by purchase or barter any such articles, without a written license from the Board of Selectmen. The Board of Selectmen shall set the fee for such license. Each license shall continue in force until the first day of May ensuing unless sooner revoked by the Selectmen.

Until a new fee is established by the Board of Selectmen, the Town shall continue to charge the same fees that were in effect immediately prior to the effective date of this bylaw.

§ 127-2 Purchases:

- a) All purchases by persons licensed under this provision shall be recorded in a bound book in which shall be plainly written at the time of purchase, name address, age, date, time and description of items purchased and signature of persons selling items. Positive photo identification from everyone selling any item must be shown. There shall be no purchase from a minor. All purchases of precious metals shall be made on licensed premises only. A report shall be filed with the Chief of Police on the forms provided by him of all purchases made that day.
- b) There shall be a fifteen-day holding period within the town or a place designated by the Chief of Police, for all items purchased. All items purchased shall be made available for inspection by the Police Department, Town Manager or his designee. No item shall be altered during the fifteen-day holding period. If purchasing

from other dealers, the licensee shall maintain the same records and same book for the same period as previously stated. (State law reference M.G.L.Ch266, §142)

§ 127-3 Weights and Measures and Scales

The weight to be used and the type of scale to be used by a person licensed pursuant to the provisions of this bylaw shall be described by the town sealer of weights and measures. The purchaser shall put the current market price at the weight at which they are buying. The licensee must present with his application for a license, a certificate from the sealer of weights and measures and scales have been properly sealed. The applicant must notify the Police Department of the name of the firms to whom he sells his precious metals and if there are any changes the Police Department shall be so notified.

§127-4 Hours of Operation

The hours of operation of a person licensed pursuant to the provisions of this bylaw shall be from the time of 9:00 a.m. to 9:00 p.m., except that the premises shall be closed on Sunday.

Chapter 129

LICENSES AND PERMITS

[HISTORY: Adopted by the Town of North Andover as Chapter 129 of the General Bylaws. Annual Town Meeting May 3, 1993 - Amendments noted where applicable.]

§ 129-1 Licenses and Permits

A. The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessment, betterments or other municipal charges for not less than a twelve (12) month period, and that such party has not filed in good faith a pending application for an abatement of such taxes or a pending petition before the appellate tax board.

B. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal for such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this Bylaw shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

C. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided however, that the holder be given notice and a hearing as required by applicable provisions of law.

D. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of M.G.L. Chapter 268 in the business or activity conducted in or on said property.

This Bylaw shall not apply to the following licenses and permits issued under the following M.G.L. Chapters; open burning, Section 13 of Chapter 48; bicycle permits, Section 11A of Chapter 85; sales of articles for charitable purposes, Section 33 of Chapter 101; children work permits, Section 69 of Chapter 149; clubs, associations dispensing food or beverage licenses, Section 21E of Chapter 140; dog licenses, Section 137 of Chapter 140; fishing, hunting, trapping license, Section 12 of Chapter 131; marriage licenses, Section 28 of Chapter 207 and theatrical events, public exhibition permits, Section 181 of Chapter 140.

Chapter 130

LITTERING

[HISTORY: Adopted by the Town of North Andover as Chapter 5, Section 5.4 of the General Bylaws; amended in its entirety May 2, 1988 Annual Town Meeting, Article 18. [Amended: Article 10 June 6, 2006 Annual Town Meeting – Approved by Attorney General October 16, 2006]

- § 130-1 Prohibited Activity**
- § 130-2 Violations and Penalties**

§ 130-1 Prohibited Activity.

Except on land or in receptacles designated by the town for dumping or placing of trash, no person shall in any manner, whether from on foot or from any vehicle, throw, drop or discard upon any property, public or private (except that owned or leased by him/her), any trash or litter of any kind whatsoever. Notwithstanding the foregoing, it is further understood that the accumulation of litter or trash on private property so as to blight the appearance of the neighborhood shall be a violation of this chapter.

§ 130-2 Violations and Penalties

Any person found guilty of violation of this chapter shall be punished by the payment of a fine of not less than two hundred dollars (**\$200**) nor more than a law shall allow. Each day after an initial citation shall constitute a separate offense until the litter is removed.

The Enforcement Agent for purposes of this Bylaw shall be the Police Chief or his designee.[Article 10 June 6, 2006 Annual Town Meeting]

Chapter 134

Machine Shop Village Neighborhood Conservation District

[HISTORY: Adopted by the Town of North Andover as Chapter 134 of the General Bylaws; May 13, 2008 Annual Town Meeting, Article 34 – Approved by Attorney General September 17, 2008]

§	134-1	Title
§	134-2	Purpose
§	134-3	Definitions
§	134-4	District
§	134-5	Neighborhood Conservation District Commission
§	134-6	Neighborhood Conservation District Commission Powers And Duties.
§	134-7	Alteration Prohibited Without A Certificate
§	134-8	Alterations Excluded From Commission Review
§	134-9	Procedures For The Review Of Major Alterations
§	134-10	Procedures For Issuance And Filing Of Certificates
§	134-11	Enforcement And Penalties
§	134-12	Appeal Procedure
§	134-13	Validity And Separability
§	134-14	Appendices

The Town of North Andover hereby establishes a Neighborhood Conservation District known as the Machine Shop Village Neighborhood Conservation District, to be administered by a Neighborhood Conservation District Commission. This Bylaw shall be known and may be cited as the North Andover Machine Shop Village Neighborhood Conservation District Bylaw and is adopted pursuant to the Home Rule Amendment to the Massachusetts Constitution.

§ 134-2. Purpose. This by-law is enacted for the purpose of preserving and protecting groups of buildings and their settings that are architecturally and historically distinctive which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of alterations, additions, demolitions and new construction on the character of the town. Through this bylaw, alterations, additions, demolition and new construction may be reviewed for compatibility with the existing buildings, setting and neighborhood character. This bylaw seeks to encourage the protection of the built environment through a combination of binding and non-binding regulatory review. This bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work.

§ 134-3. Definitions

As used in this Bylaw the following terms shall have the following meaning:

ADDITION: A change to a building that includes additional stories, height or floor area.

ADVISORY REVIEW: An application review procedure that provides non-binding recommendations to the applicant.

ALTERATION, TO ALTER: A change to a building or part thereof such as removal, construction, reconstruction, restoration, replication, rehabilitation, demolition and other similar activities. A change to a building that includes additions and other similar activities. A change to a site that includes constructing, placing, erecting, installing, enlarging and moving a building or other similar activities.

APPLICATION: The complete document(s) and supporting material(s) to be submitted by an applicant desiring to obtain a Certificate to Alter. A complete application shall include information reasonably deemed necessary by the commission to enable it to make a determination.

BUILDING: A combination of materials forming a shelter for persons, animals or property.

CERTIFICATE TO ALTER: A document granted by the Neighborhood Conservation District Commission in order to obtain a building (or demolition) permit.

COMMISSION: The Machine Shop Village Neighborhood Conservation District Commission

COMPATIBLE: A project that meets the design guidelines of the neighborhood conservation district commission.

DESIGN GUIDELINES: The document used by the Neighborhood Conservation District Commission to determine whether a proposed project is compatible. The design guidelines are appended to this bylaw.

DISTRICT: The Neighborhood Conservation District as established in this bylaw.

PERSON AGGRIEVED: An applicant, an abutter or an owner of property within the district.

SUBSTITUTE DOORS: Doors consisting of materials that no longer represent the original fabric but do maintain the original architectural integrity with respect to form, fit and function.

SUBSTITUTE SIDING: Exterior covering of building consisting of materials that no longer represent the original fabric or intent.

SUBSTITUTE WINDOWS: Windows consisting of materials that no longer represent the original fabric but do maintain the original architectural integrity with respect to form, fit and function.

§ 134-4. District

The Neighborhood Conservation District shall encompass the area shown on the map titled, Machine Shop Village Plan of Proposed Neighborhood Conservation District, Appendix A, Figure 1, which is appended to this bylaw and made a part hereof.

§ 134-5. Neighborhood Conservation District Commission

The Neighborhood Conservation District shall be overseen by a Commission, which is hereby established, consisting of five members, to be appointed by the Board of Selectmen, two members initially to be appointed for one year, two for two years, and one for three years, and each successive appointment to be made for three years.

The Board of Selectmen may appoint up to five alternate members to the Neighborhood Conservation District. Said alternate members shall initially be appointed for terms of one, two and three years, and for three year terms thereafter. In the case of absence, inability to act, or recusal from action due to a conflict of interest of a Member of the Commission, his or her place shall be taken by an alternate member designated by the Chairperson, if available, otherwise by the Vice-Chairperson if available, otherwise by a majority vote of the members and alternate members of the Commission present.

The Commission shall include, if possible, a minimum of three residents of the district; a member of the local historical commission; a realtor; an architect and a building contractor familiar with historic rehabilitation. If possible, the Chairperson of the Commission should be a resident of the district and shall be elected by a majority of the Commission. Members and alternates of the Commission shall by reason of experience or education have demonstrable knowledge and concern for improvement, conservation and enhancement of the district, but the final decision regarding appointment of members and their qualifications shall be at the discretion of the Board of Selectmen.

Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

Meetings of the Commission shall be held at the call of the Chairperson, at the request of two members and in such other manner as the Commission shall determine in its Rules and Regulations. Three members of the Commission shall constitute a quorum.

§ 134-6. Neighborhood Conservation District Commission Powers And Duties.

The Commission shall exercise its powers in administering and regulating the alteration of buildings within the neighborhood conservation district as set forth under the procedures and criteria established in this bylaw.

The Commission, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall, may adopt and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this bylaw or setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, fees, hearing procedures and other matters. Amendments to the Rules and Regulations shall be made by a majority vote of the Commission. The Commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

The Commission, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall may adopt and from time to time amend design guidelines which set forth the designs for certain alterations which are, in general, suitable for the issuance of a Certificate to Alter. Amendments to the design guidelines shall be made by a majority vote of the Commission. No such design guidelines shall limit the right of an applicant for a Certificate to Alter to present other designs to the Commission for approval.

The Commission shall at the beginning of each year hold an organizational meeting and elect a Chairperson, a Vice Chairperson and Secretary, and file notice of such election with the office of the Town Clerk. The Commission shall keep a permanent record of its regulations, transactions, decisions and determinations and of the vote of each member participating therein. The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of a neighborhood conservation district.

§ 134-7. Alteration Prohibited Without A Certificate

Except as this Bylaw provides, no alterations to any building or part thereof within a Neighborhood Conservation District shall be permitted unless the commission shall first have issued a Certificate to Alter.

§134-8. Alterations Excluded From Commission Review

It shall be the responsibility of the Commission, or its delegate thereof to determine whether an alteration is exempt from review. The Commission or its delegate thereof shall have seven days from the date of receipt of a request for Certificate to Alter to make this determination.

The following projects are excluded from Commission review.

- Projects not requiring a building (or demolition) permit.
- Structures not defined as buildings or parts of buildings
- Temporary buildings, subject to time limits by the Neighborhood Conservation District Commission.
- Interior Alterations
- Storm windows and doors, screen windows and doors.
- Removal, replacement or installation of gutters and downspouts.
- Removal, replacement or installation of window and door shutters.
- Accessory buildings of less than 100 square feet of floor area.
- Removal of substitute siding.
- Alterations not visible from a public way.
- Ordinary maintenance and repair of architectural features that match the existing conditions including materials, design and dimensions.
- Replacement of existing substitute doors, substitute siding or substitute windows with new materials that are substantially similar to the existing condition.
- Replacement of original fabric windows or doors with substitute windows or doors that maintain the architectural integrity with respect to form, fit and function of the original windows or doors.
- Reconstruction, substantially similar in exterior design, of a building, damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

§134-9. Procedures For The Review Of Major Alterations

The following major alterations require the submittal of an application for a regulatory review by the Commission. The decision of the Commission shall be binding on the applicant.

- Demolition of a building or part of a building.
- New construction including buildings and additions.
- Accessibility Improvements including ramps, rails, walkways and mechanical equipment associated with exterior architectural barriers.
- Replacement of original fabric with substitute siding
- Removal of architectural trim
- Replacement of windows and doors that alters the form, fit or function of the existing opening.

Within forty five days of the submittal of an application for a major alteration, the Commission shall hold a public hearing on the application. At least seven days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall. Such notice shall identify the time, place and purpose of the public hearing. At least seven days before said public hearing, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties

deemed by the Commission to be materially affected thereby all as they appear on the most recent applicable tax list.

Following the public hearing, the Commission shall determine whether the proposed alteration is compatible with the purpose of this bylaw and the design guidelines adopted by the Commission. Determinations shall be made by majority vote of the Commission.

If the Commission determines that the alteration is compatible, the Commission shall issue a Certificate to Alter. The vote of at least three members shall be required to issue a Certificate to Alter.

If the Commission cannot determine that the alteration is compatible, the Commission shall decline to issue the Certificate to Alter. The Commission shall provide the applicant with a written statement with the reasons for its disapproval including how the alteration does not meet the design guidelines or the purpose of this bylaw.

§134-10. Procedures For Issuance And Filing Of Certificates

Each Certificate issued by the Commission shall be dated and signed by its chairperson or such other person designated by the Commission to sign such Certificates on its behalf. The Commission shall send a copy of its Certificates and disapprovals to the applicant and shall file a copy of its Certificates and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a Certificate or disapproval shall be the date of the filing of a copy of such Certificate or disapproval with the office of the Town Clerk.

If the Commission should fail to make a determination within sixty days of the filing of the application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate to Alter due to failure to act.

§134-11. Enforcement And Penalties

The Neighborhood Conservation District Commission is specifically authorized to institute any and all actions, proceedings in law and in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.

The Commission may designate the Building Commissioner to act on its behalf and to enforce this Bylaw under the direction of the Commission.

Any owner of a building subject to this bylaw that alters a building without first obtaining a Certificate to Alter in accordance with the provisions of this bylaw shall be subject to a fine of Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until the alteration is corrected, the addition is removed or a faithful restoration of

the demolished building is completed or unless otherwise agreed to by the Commission. If a violation of this bylaw remains outstanding, no building permit on the premises shall be issued until the violation is corrected or unless otherwise agreed to by the Commission.

§134-12. Appeal Procedure

Any applicant or person aggrieved by a determination of a neighborhood conservation district commission may appeal to a court of competent jurisdiction.

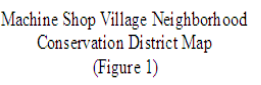
§134-13. Validity And Separability

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

§134-14. Appendices

Appendix A. The location and boundaries of the Machine Shop Village Neighborhood Conservation District are defined and shown on the Machine Shop Village Neighborhood Conservation District Map of the Town of North Andover, Figure 1 which is a part of this Bylaw.

FIGURE 1 – MACHINE SHOP VILLAGE CONSERVATION DISTRICT



B. Design Guidelines

Appendix B Machine Shop Village

Neighborhood Conservation District -Design Guidelines

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within the Machine Shop Village Neighborhood Conservation District and no demolition permit for demolition or removal of a building or structure within the Machine Shop Village Neighborhood Conservation District shall be issued by any town department until a Certificate to Alter has been issued by the Commission.

GENERAL

There are many elements that contribute to the character of both a building and a neighborhood that are considered by the Commission in its deliberations. These include architectural style, individual architecturally significant elements, and the degree of visibility for work under construction. The design strategy used in the context of the Neighborhood Conservation District recommends that changes made are consistent with the materials, scale, proportions, detailing, character, and stylistic features of the building.

In passing upon matters before it the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, and material of the features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures the commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the commission may in appropriate cases impose dimensional and set-back requirements in addition to those required by applicable ordinance or by-law. The commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surrounding and of the Machine Shop Village Neighborhood Conservation District.

The Commission recommends the following general guidelines:

1. Original materials and features should be kept and not removed or altered; if a replacement is necessary it should match the original in material and design.
2. New openings on visible facades are discouraged, except to restore original or pre-existing conditions.
3. Restoration of missing design features should be documented by photographic, physical or historical evidence.
4. Deteriorated architectural features should be repaired rather than replaced, whenever possible.

5. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed at a later date, the essential form and integrity of the structure would be unimpaired.
6. The use of new materials not originally found on the building is discouraged.
7. The commission generally encourages the retention of existing original windows.

NEW CONSTRUCTION AND ADDITIONS

New construction requires much careful planning. The Commission reviews proposals on a case by case basis.

1. Additions should, if possible, be on the least visible façade. The Commission prefers the least disruption to the external appearance of the building and the streetscape.
2. Typically additions should blend or harmonize with the existing character of the building, taking into account size, scale, massing, material, location and detail. It is also desirable that the original portion of the building continues to be recognizable, apart from the addition, by means of massing, articulation, trim or other devices.
3. New construction should be compatible and harmonious with the existing historic streetscape. The historic relationship of buildings to the street, including setbacks and open spaces, shall be maintained. Attention will be given to construction materials, scale, massing, and architectural details.

WINDOWS

Windows are one of the most important design features of any structure. The material, design and placement of the windows reflect the architectural and cultural character of the building's period or style. There are several aspects to consider including the original casing, size, and number of panes, rhythm, patterns, placement, and type of window.

1. Typically the number and arrangement of panes in new windows should be compatible with similar sized and proportioned windows in the building, e.g. "two over one", "six over six", etc.
2. It is desirable to repair and retain existing elements, such as sash, casings and muntins (or mullions), whenever possible. If replacement is necessary, it should be an exact replication of the original—e.g. with the same number and size of panes and dimensions of components.
3. New window openings and changes in existing window opening dimensions are generally discouraged, especially on principal facades.
4. Where double glazing intended to look like traditional wood sash is used, for instance on new construction, the commission generally prefers sash with a single sheet of double glazing and externally and internally adhered wood muntins combined with appropriately colored internal glazing bars between the layers of glass.

5. Removable storm windows are preferred to replacement of original wood sash. We encourage storm windows that have a baked enamel finish that blends in with the paint scheme of the building or has a paintable surface.
6. Stained glass or decorative windows should be retained.

MASONRY

1. The painting of masonry, which has never been painted, is strongly discouraged.
2. Tuck pointing (laying new mortar in old mortar joints of an existing brick wall) can change the appearance and character of a brick or stone walls. Repointing should be discussed with the Commission in advance.
3. Retain the original mortar whenever possible. If it is necessary to repoint, duplicate the old mortar as nearly as possible in type, color, size, texture and joint profile.
4. New bricks should match the old brick as closely as possible in size, color, and bond.
5. The use of sealers for bricks is strongly discouraged, as it tends to trap moisture.
6. If brick needs cleaning, sandblasting is not permitted. It will destroy the brick's hard outer crust and accelerate its deterioration.

CLAPBOARD, SHINGLES, TRIM AND DETAILS

1. The covering of clapboard and shingles with any artificial siding or any other material is discouraged, except in accordance with the bylaw. The replacement of the original historic material is encouraged.
2. Existing trim should be retained and repaired wherever possible.
3. Removal of any architecturally or historically important trim is strongly discouraged. Such trim should be restored or replaced with an exact duplication.
4. The covering of trim with any artificial siding or any other material is discouraged.

ROOFS-CHIMNEYS-DORMERS

1. All distinctive roof features-patterned shingles, iron cresting, chimneys, and weathervanes should be retained.
2. The retention of original rooflines is strongly encouraged.
3. Skylights and dormers are reviewed on an individual basis. It is recommended that these elements be placed on the rear or least visible façade whenever possible.
4. Original dormers and trim should not be removed.

DOORS-ENTRANCES-PORCHES

1. Historic door openings should be retained.
2. Existing doors and door elements should be retained, including, but not limited to, transoms and sidelights.

3. Efforts should be made to replicate existing door hardware.
4. Plywood, metal, or other non-wood doors are not acceptable, except in accordance with the bylaw.
5. The replacement of original elements or features appropriate to the style and age of a building is normally encouraged, when those features have been replaced with clearly unsuitable substitutes.
6. Removable storm doors, like removable storm windows, are permitted as “reversible changes”. However, their installation should not destroy the integrity of original doorway.
7. Entrance porticos and porches shall be maintained, wherever possible
8. Enclosing porches and steps so as to destroy their intended appearance is strongly discouraged.

SIGNS

Signage within the Machine Shop Village Neighborhood Conservation District should contribute to and be in keeping with the historic character of the area. Traditional wood or wood like carved or painted signs are encouraged. Spot lighting is permitted. All new signs are subject to review by the commission. Signs made of the following types and/or materials will not be approved:

1. Plastic signs illuminated from the inside are not permitted.
2. No neon signs.
3. Existing neon signs can remain in place for a period of three years from the date that these guidelines come into effect.
4. Permanent vinyl banners will not be permitted.
5. Temporary vinyl banners or signs will be permitted for a period of time not to exceed 60 days.

SEVERABILITY

The provisions of these design guidelines shall be deemed to be severable if any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction the remaining provisions shall continue in full force and effect.

Chapter 136

NEWSRACKS, PLACEMENT AND MAINTENANCE

[HISTORY: Adopted by the Town of North Andover as Chapter 136 of the General Bylaws; in its entirety May 10, 2005 Annual Town Meeting, Article 18. Approved by Attorney General August 29, 2005. Subsequent amendments noted where applicable.]

- § 136-1 Definitions.
- § 136-2 Certificate of Compliance
- § 136-3 Fees.
- § 136-4 Standards
- § 136-5 Attachment to Property.
- § 136-6 Advertising Prohibited.
- § 136-7 Installation, Maintenance, and Delivery Time.
- § 136-8 Enforcement Procedures.
- § 136-9 Fees For Removal and Storage.
- § 136-10 Regulations.
- § 136-11 Effect on Other Laws.
- § 136-12 Severability
- § 136-13 Effective Date.

§ 136-1 Definitions.

When used in this Bylaw, unless the context otherwise requires, the following terms shall have the following meanings:

- a. "Director" shall mean the Director of the Public Works Department of the Town of North Andover or such person as said Director may from time to time designate.
- b. "Newsrack" shall mean any type of self-service device for the vending or free distribution of newspapers, periodicals or printed material of whatever nature.
- c. "Certificate of Compliance" shall mean the Certificate of Compliance issued by the Director to the Certificate Holder in accordance with the provisions of this Bylaw.
- d. "Certificate Holder" shall mean the holder of a Certificate of Compliance issued by the Director in accordance with the provisions of this Bylaw. A Certificate Holder is responsible for the installation and maintenance of newsracks encompassed by any Certificate of Compliance issued pursuant to the provisions of this Bylaw and for compliance with all provisions contained herein.
- e. "Operator" shall mean any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like who own, operate or are otherwise in control of a newsrack.
- f. "Public way" shall mean any public highway, private way laid out under authority of statute, way dedicated to public use, or way under the control of the Town Department of Public Works, School Department, or other body having like power.

§ 136-2 Certificate of Compliance.

- a. Requirement. No person shall place, affix, erect, maintain or continue to maintain a newsrack in or on any part of a public way without first obtaining a Certificate of Compliance from the Director in accordance with the provisions of this Bylaw.
- b. The Certificate of Compliance must be renewed annually by application to the Director.
- c. Issuing Authority. The Director shall be the issuing authority and coordinator of the application process and administration of this Bylaw.
- d. Approving Authority. The approving authority shall be the Director. The Director or his/her designee shall review and approve for compliance with Section 136-2, entitled Certificate of Compliance, Section 136-4, entitled Standards, and Section 136-7, entitled Installation, Maintenance and Delivery Time.
- e. Application Process. Applicants must complete a written application on a form provided by the Director.
- f. Application. The application shall describe in sufficient detail, the number, location and type of newsracks for which the Certificate of Compliance is sought and shall contain the following information:
 1. the name, address and telephone number of the applicant who is the owner/operator or other person who is the principal responsible person in charge of the newsrack(s); and
 2. the name, address and telephone number of a natural person (if different from the applicant) whom the Town may notify and/or contact at any time concerning the applicant's newsracks. This person would be responsible for receiving complaints and notices of violations when a Certificate of Compliance is issued and for providing information relating to the application during the application process; and
 3. the number of newsracks and a written description specifying the proposed approximate location of each; and
 4. a certificate of insurance naming the Town of North Andover as an additional insured in an amount sufficient to indemnify the Town and hold it harmless from any and all claims or judgements for personal and bodily injury, including death, or property damage and from costs and expenses to which the Town may be subjected or which it may suffer or incur by reason of the design, placement, installation, operation or maintenance of any of the applicant's newsracks. Reasonable evidence of self-insurance coverage may be substituted by the applicant for the certificate of insurance. The amount of insurance coverage required shall be determined by the Town. Insurance under this section shall run continuously with the presence of the applicant's newsrack in Town of North Andover public ways and any termination or lapse of such insurance shall be a violation of this Bylaw, subject to appropriate remedy under Section 136-8 of this Bylaw; and
 5. a certification from the applicant stating that the proposed location for all of the newsracks listed in the application are in compliance with the provisions of this Bylaw.
- g. Issuance of a Certificate of Compliance. Upon a finding by the Director that the applicant is in compliance with the provisions of this Bylaw, the Director shall issue a Certificate of Compliance for installation by the applicant. The Director shall issue a partial Certificate of Compliance upon a finding that some of the proposed newsrack

locations are in compliance with the provisions of this Bylaw. Issuance of a Certificate of Compliance or a partial certificate of compliance shall designate the applicant to be the Certificate Holder. The Director shall issue a Certificate of Compliance within ten days of the Director's receipt of the completed application.

Proposed locations shall be approved on a first come, first serve basis by the Director. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this Bylaw.

h. Denial of Certificate of Compliance. If an application for a newsrack location is denied, the Director shall notify the applicant within ten days of the Director's receipt of the completed application. The Director shall state the specific reasons for denial. The applicant may reapply for a substitute alternative location without having to pay an additional application fee. An applicant who has been denied a Certificate of Compliance pursuant to this Bylaw may appeal within thirty (30) days of such denial by requesting in writing to the Director an appearance before the Director to review said denial. The appeal shall be heard by the Director within twenty (20) days of receipt of the appeal.

The decision on the appeal shall be sent to the applicant within five (5) days after the hearing.

i. The Director reserves the right to order by written notice to the Certificate Holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

§ 136-3 Fees.

a. There shall be a Certificate of Compliance fee in the amount of two hundred (\$200.00) dollars paid to the Town. This fee shall be due upon initial application and upon each annual renewal.

b. Additional Certificate of Compliance. If at any time after the Director has issued a Certificate of Compliance a Certificate Holder proposes to install additional newsracks, then the provisions of Section 136-2 are to be repeated. Additional Certificate of Compliance fees shall be in accordance with Section (a), except that the Certificate of Compliance fee is waived if previously paid.

c. In addition to the Certificate of Compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the Town to offset the Town's cost of monitoring compliance with this Bylaw.

d. Where the Director has required newsracks to be set in corrals, or at hitching posts pursuant to Section 136-4 below, additional fees shall be imposed by the Director on Certificate Holders to offset the Town's costs for each such corral or hitching post used by such Certificate Holder.

e. Upon a showing of significant financial hardship, whereby the payment of the full Certificate of Compliance fee will impair the ability of the publisher to distribute a publication through newsracks to members of the public, the Director may reduce the fee due upon initial application or upon an annual renewal by an amount s/he determines, in her or his sole discretion, as appropriate.

§ 136-4 Standards.

a. Placement. Subject to the prohibitions contained in this section newsracks shall be placed parallel to and not less than eighteen (18") inches nor more than twenty-four (24") inches from the edge of the curb. Newsracks so placed shall face the sidewalk, not the street. Newsracks placed near the wall of a building or other structure must be placed parallel to and not more than six (6") inches away from the wall.

No newsrack (s) shall be affixed, erected, installed, placed, used or maintained:

1. at any location in excess of eight (8) feet in width (plus the width of a newsrack) whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or, if the sidewalk location is less than eight (8) feet in width (plus the width of a newsrack), then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet in width; however, a width of four (4) to five (5) feet may be approved by the Director if requested, only after the Director consults with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the four (4) to five (5) foot width, and whether the pedestrian passage in that location could safely and reasonably be reduced to a width of four (4) to five (5) feet; and
2. within five (5) feet of any marked, or unmarked crosswalk or handicapped ramp; and
3. within five (5) feet of any fire hydrant, fire lane, fire call box, police call box or other emergency facility, mail box, telephone booth or stand; and
4. within five (5) feet of any part of a curb return of a curb ramp or driveway, or in the case of a curb ramp or driveway without a curb return, within five (5) feet of the point where the curb edgestone or edging begins a change in grade toward the driveway or ramp on each side thereof, or in the case of a termination of the curb, edgestone or edging without a change in grade or a turn, within five (5) feet of the point of the same terminates on each side of the ramp or driveway; and
5. within five (5) feet of any traffic control signal or traffic sign; and
6. within five (5) feet of a bicycle rack; and
7. within five (5) feet ahead or fifteen (15) feet to the rear of any designated bus stop, taxi stand, valet parking area, loading zone or fire lane, or any disabled parking space, unless such newsrack is placed parallel against a wall that is within four (4) feet of a designated bus stop, taxi stand, valet parking area, loading zone or fire lane and the newsrack so placed does not project into or otherwise interfere with the unobstructed flow of pedestrian and vehicular traffic;
8. which in any way protrudes onto a street; or
9. on any sidewalk immediately abutting a public school.

The Director may require that newsracks at locations in which more than three (3) are adjacent shall be set within an open-ended corral installed by the Town; and the Director may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the Town. The Director may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

§ 136-5 Attachment to Property.

- a. Attachment to Trees and Other Objects Prohibited. Except to the extent permitted by regulations promulgated by the Director, no operator shall place or cause to be placed and no operator shall suffer to remain any newsrack chained or otherwise attached to any tree, street light post, traffic signal or sign.
- b. Attachment to Other Newsracks. Newsracks, when placed side by side, may be chained or otherwise attached to one another, provided that no group of newsracks shall extend for a distance of more than eight (8) feet along a curb, and a space of not less than five (5) feet shall separate each group of newsracks.

§ 136-6 Advertising Prohibited.

It shall be unlawful for any operator to use a Newsrack for advertising other than that dealing with the display, sale or purchase of the publications dispensed therein.

§ 136-7 Installation, Maintenance, and Delivery Time.

Newsracks shall be of a sturdy material and installed or otherwise placed and maintained by the Certificate Holder in accordance with the following provisions:

- a. Each newsrack shall prominently display the name, address and phone number of a person or entity responsible for that newsrack.
- b. Each newsrack shall be:
 1. installed or placed on the pavement in an upright, sufficiently weighted and secure position;
 2. of a type that is completely enclosed, with a self-closing door that is either self-latching or otherwise requires manual or mechanical release at each use; and
 3. maintained in a state of good repair and in a neat and clean condition; and
 4. maintained in a condition that is free of accumulations of outdated printed materials, trash, rubbish, or debris; and
 5. handicapped accessible, as defined by the state Architectural Access Board.
- c. Each newsrack shall be regularly serviced so that:
 1. it is kept reasonably free of graffiti; and
 2. it is kept reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof; and
 3. it is kept reasonably free of rust and corrosion in the visible unpainted metal areas thereof; and
 4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed are not broken and are kept reasonably free of tears, peeling or fading; and
 5. the structural parts of the newsrack are not broken or unduly misshapen.
- d. Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Director. The Director shall forthwith notify the Certificate Holder of the

complaint. The Certificate Holder shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within ten (10) days, the complainant may request a meeting before the Director, or his/her designee, and the Certificate Holder. After such meeting, the Director shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

§136-8 Enforcement Procedures.

a. Non-Conforming Newsracks. Any newsrack found not to be in compliance with this Bylaw shall be subject to the enforcement provisions contained herein.

b. Abandonment. In the event that any newsrack installed pursuant to the provisions of this Bylaw does not contain the printed material being dispensed therein for a period of seventy-two (72) hours after the release of the current issue, the Director may deem the newsrack abandoned and take appropriate action under this Bylaw. A newsrack shall otherwise be deemed abandoned if no printed material is found in the newsrack for a period of more than fifteen (15) consecutive days. In the event that a Certificate Holder voluntarily abandons a newsrack location, the Certificate Holder shall so notify the Director, completely remove the newsrack and restore the public way to a safe condition.

c. Enforcement.

1. Enforcement of the provisions of this Bylaw shall be carried out by the Director. Upon a determination that a violation of any provision of this Bylaw exists the Director shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

- a. the location of the newsrack; and
- b. the date of the incident or other cause giving rise to the violation; and
- c. a brief and concise statement of the facts causing the violation.

2. The notice shall inform the Certificate Holder that at the expiration of ten (10) days from the receipt of the violation notice, the newsrack will be removed by the Director, unless the violation is corrected.

3. Upon removal of a newsrack, the Director shall send, by first-class mail, written notice of such removal to the Certificate Holder.

4. Notwithstanding the provisions of the foregoing paragraphs 1(a) - 1(c) of this section, the Director may order the immediate removal of any newsrack(s) that the Director determines presents an imminent threat or peril to public safety, provided that the Certificate Holder shall be notified of such removal as soon as practicable thereafter, and further provided that any newsrack so removed shall be stored a period of thirty (30) days in order to allow the Certificate Holder to retrieve the newsrack. If the Director removes a newsrack under this section (4) which does not have a Certificate of Compliance, the Director shall dispose of the newsrack at the end of the thirty (30) day period.

§136-9 Fees For Removal and Storage.

a. A newsrack removed pursuant to this Bylaw may be retrieved by the Certificate Holder at any time within thirty (30) days of its removal upon payment of a removal fee

of twenty-five (\$25.00) dollars plus a storage fee of five (\$5.00) dollars per day, to a maximum combined removal and storage fee of one hundred (\$100.00) dollars.

b. After thirty (30) days, any newsracks removed by the Director pursuant to Section 136-8 of this Bylaw shall be deemed "abandoned property" and become the property of the Town of North Andover.

c. Failure of a Certificate Holder to retrieve a newsrack within the specified thirty (30) day period shall not operate to dismiss any fees owed to the Town for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 136-9 shall be considered a debt payable to the Town.

§ 136-10 Regulations.

The Director may, with the approval of the Town Manager, promulgate such rules and regulations consistent with the provisions of this Bylaw and the laws of the Commonwealth of Massachusetts as shall carry out the purposes of this Bylaw.

§ 136-11 Effect on Other Laws.

Nothing in this Chapter shall affect the adoption of regulations affecting newsracks by other government bodies, such as historic district commissions, to the extent such bodies are authorized to adopt such regulations.

§ 136-12 Severability.

The provisions of this Bylaw shall be severable and if any section, part, or portion hereof shall be held invalid for any reason by any court, the decision of such court shall not affect or impair any remaining section, part or portion thereof.

Chapter 141

PEACE AND GOOD ORDER

[HISTORY: Adopted by the Town of North Andover as Chapter 5, Section 5.6 of the General Bylaws. Amendments noted where applicable.]

- § 141-1 **Disorderly Conduct**
- § 141-2 **Loitering**
- § 141-3 **Consumption of Alcoholic Beverages**
- § 141-4 **Trespassing**

§ 141-1 Disorderly Conduct.

No person shall behave in a rude or disorderly manner, nor use loud, profane or indecent language, nor throw stones, snowballs or other missiles in any street or other public place.

§ 141-2 Loitering.

No person shall loiter upon any sidewalks, street or way of the town or upon private property thereto without the consent of the owner thereof, after has been requested by a constable or police officer to depArticle

§ 141-3 Consumption of Alcoholic Beverages.

No person shall drink any alcoholic beverages as defined in Massachusetts General Laws C. 138, Sec. 1, while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground or private land or place without consent of the owner or person in control thereof. All alcoholic beverages being used in violation of this chapter shall be seized and safety held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession, provided that such portion of the above-defined beverages used for analysis shall be disposed of according to law.

§ 141-4 Trespassing.

A. There shall be no trespassing on any property normally used for school purposes while school is in session, nor from one (1) hour after sunset to one (1) hour before sunrise.

B. There shall be no trespassing at any time on any of the town triangles. There shall be no trespassing in parks and playgrounds from one (1) hour after sunset to one (1) hour before sunrise on any day. No use shall be made of town forest and town farm grounds from sunset to sunrise except with the special permission of the Selectmen.

Chapter 146

Recreational Uses on Lake Cochichewick and Its Tributaries

[HISTORY: Adopted by the Town of North Andover May 13, 2000 Annual Town Meeting, Article 33 - Approved by Attorney General October 12, 2000 and by the Director of Law Enforcement for the Division of Fisheries & Wildlife & Environmental Law Enforcement. Amendments noted where applicable.]

§ 146-1 Prohibitions

§ 146-1 Prohibitions.

All gasoline or diesel powered engines, containers that transport any type of gasoline or diesel fuel, or anything that uses such fuels, such as, but not limited to: boats, snowmobiles, ice augers, generators, stoves or lamps, are prohibited, unless other wise authorized by the Department of Public works for lake monitoring and/or safety/emergency procedures.

Chapter 147

RECYCLING

[HISTORY: Adopted by the Town of North Andover as Chapter 5, Section 5.5 of the General Bylaws. Amendments noted where applicable.]

§ 147-1 Unauthorized Removal of Materials to be Recycled Prohibited

GENERAL REFERENCES

Garbage, rubbish and refuse - See Chapter 115.

§ 147-1 Unauthorized Removal of Materials to be Recycled Prohibited.

The removal from a public sidewalk, way or any usual point of residential rubbish pickup, of any material specifically set apart from ordinary household rubbish for the purpose of being recycled, under the recycling program of the town, by any persons other than those properly authorized to pick up such material, is hereby expressly prohibited.

Chapter 154

SEWERS

[HISTORY: Adopted by the Town of North Andover as Chapter 5, Section 5.2 of the General Bylaws. Amendments noted where applicable.]

- § **154-1 Common Sewer Connections**
- § **154-2 Regulations for House Drains**
- § **154-3 House Drain Connection License Required**

§ **154-1 Common Sewer Connections.**

The Board of Selectmen may declare any sewer laid in any land, street or way, public or private, opened or proposed to be opened for public travel, to be a common sewer and the same shall not be laid or connected with any existing common sewer except by the town officials authorized by law to lay and maintain common sewers.

§ **154-2 Regulations for House Drains.**

The Board of Health may make and enforce regulations for the public health and safety relative to house drainage and its connections with sewers, if a public sewer abuts the estate to be drained.

§ **154-3 House Drain Connection License Required.**

A. No person shall enter his drain into any common sewer without a written license from the Board of Selectmen, and any person entering under such license shall comply with such rules and regulations as to material and construction as the Board of Selectmen may prescribe. Said Board may close any drain entering a common sewer for failure to comply with the provisions of this chapter.

B. No excavation shall be made within a public way in connecting such private drains with a common street except under the direction of the Director of Public Works, or other persons having charge of the streets of the town.

Chapter 158

SOLICITATION

[HISTORY: Adopted by the Town of North Andover, Annual Town Meeting May 4, 1994, Article 18][Amended: Article 10 June 6, 2006 Annual Town Meeting – Approved by Attorney General October 16, 2006]

- § 158-1 Purpose
 - § 158-2 Definitions
 - § 158-3 Exception
 - § 158-4 Registration
 - § 158-5 Registration Fee
 - § 158-6 Investigation
 - § 158-7 Registration Cards
 - § 158-8 Notice Regulating Solicitation
 - § 158-9 Duties of Solicitors
 - § 158-10 Restrictions on Methods of Solicitation
 - § 158-11 Revocation of Licenses
 - § 158-12 Penalty
 - § 158-13 Severability
 - § 158-14 Fees
-
- § 158-1 **Purpose.**

This Bylaw, adopted pursuant to Massachusetts General Laws, Chapter 43B, Section 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for all persons intending to engage in door-to-door canvassing or solicitation in the Town of North Andover in order to:

1. Protect its citizenry from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and
2. To allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

§ 158-2 **Definitions.**

“Solicitor” or “Canvasser” is defined as any person who, for himself or for another person, firm or corporation travels by foot, automobile or other type of convenience from place to place, from house to house, or from street to street, taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including without limiting, the selling, distributing, exposing for sale or soliciting orders

for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for service to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

“Residence” shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

“Registered Solicitor” shall mean any person who has obtained a valid certificate of registration from the Town, as required under this Bylaw.

§ 158-3 Exception.

The provisions of this Bylaw shall not apply to any person duly licensed under Chapter 101, or to any person exempted under Chapter 101, Chapter 149, Section 69, Chapter 180, Section 4, or to any person exempted by any other General Law, or officers or employees of the Town, County, State or Federal government when on official business or route salesmen or other persons having established customers to whom they make periodic deliveries to such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries including news carriers. This Bylaw shall not prevent persons from engaging in the pursuit of soliciting for charitable, benevolent, fraternal, religious or political activities.

§ 158-4 Registration.

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of North Andover must register with the Police Department at least seven (7) days in advance by filing a registration application form with the Chief of Police. Such form will be signed under the penalties of perjury and contain the following information:

- A.** Name of Applicant
- B.** Address of applicant. Business, local and home address.
- C.** Telephone number of applicant. Business and home numbers.
- D.** Applicant’s social security number.
- E.** The length of time for which the right to do business is desired. No registration will be granted for a period longer than 90 days.
- F.** A brief description of the nature of the business and the goods to be sold.
- G.** The name, home office address and telephone number of the applicant’s employer. If self-employed, it shall so state.

H. A photograph of the applicant, which shall be provided by the applicant, and be 2"x2" , and will show the head and shoulders of the applicant in a clear and distinguishing manner. This provision may be waived by the Chief of Police for local non-profit organizations.

I. If operating or being transported by a motor vehicle(s): The year, make model, vehicle identification number, registration number, state of registration and the vehicle's owner and address, for each vehicle, will be provided.

J. The names of the three most recent communities (if any) in which the applicant has solicited or canvassed door-to-door.

In addition, a list of names, addresses, dates of birth, and social security numbers of all individuals who will be employed in canvassing or solicitation and those supervising such individuals as a roster of local non-profit canvassers or solicitors will be attached to the application. The Chief of Police may refuse to register an organization or individual whose registration has been revoked for violation of this Bylaw within the previous two-year period.

§ 158-5 Registration Fee.

**[Deleted and replaced:Article 10, June 6, 2006 Annual Town Meeting-
Approved by Attorney General October 16, 2006]**

Each applicant for registration or re-registration shall pay a non-refundable fee to the Town at the time of application. The registration fee shall be established by the Board of Selectmen. A registration fee must be paid for each person who will be engaged in soliciting or canvassing or the supervision of canvassing or soliciting. The fee may be waived at the discretion of the Chief of Police for a non-profit organization with proof of non-profit status.

Until a new fee is established by the Board of Selectmen, the Town shall continue to charge the same fees that were in effect immediately prior to the effective date of this bylaw.

§ 158-6 Investigation.

Upon receipt of the application, the Chief of Police shall investigate the applicant's background and reputation. Within seven (7) days of the filing of the application, the Chief shall endorse on such application his approval or disapproval.

§ 158-7 Registration Cards.

The Chief of Police shall furnish each person engaged in solicitation or canvassing with a registration card which will contain the following information:

- A. Name of person
- B. Recent 2"x2" photograph supplied by the individual to be registered.
- C. Name of organization that the person represents.
- D. A statement that the individual has been registered with the Police Department but that registration is not an endorsement of any individual or organization.
- E. Specific dates or period of time covered by the registration.

This fee may be waived at the discretion of the Chief of Police for non-profit organizations with proof of non-profit standing.

§ 158-8 Notice Regulating Solicitation.

Every occupant of a residence desiring to secure additional protection, as provided by this Bylaw shall comply with the following requirements:

- A. A weatherproofed card, approximately 3"x5" in size shall be exhibited upon or near the main entrance door to the residence or at the beginning of the driveway indicating the determination by the occupant, as to whether solicitors or canvassers are invited to the residence by the following applicable words:

"No Solicitors or canvassers Invited"
 No Solicitors or Canvassers Invited Before the Hour of _____ AM or after the Hour of _____ PM"

Further, it shall be unlawful for any canvasser or solicitor to enter the premises of a resident or business who has displayed a "No Trespassing" or No Soliciting" sign or poster.

§158-9 Duties of Solicitors.

- A. It shall be the duty of every solicitor or canvasser, upon going onto any residential premises in the Town of North Andover, to first examine the notice provided for in Section 8 of the Bylaw, if any is exhibited.

If notice stated "No Solicitors or Canvassers Invited" then the solicitor or canvasser shall immediately and peacefully depart from the premises.
 If the notice limits the hours of the solicitation, the solicitor or canvasser shall comply with the limits noted.

B. Person engaged in solicitation or canvassing, including supervisors, must carry the registration card at all times and present the card to any person solicited or upon request of a police officer.

C. Immediately upon gaining entrance to any residence, each solicitor canvasser must do the following:

I. Present this registration card for inspection by the occupant.

II. Request that the occupant read the registration card.

III. Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of the organization.

D. Any solicitor or canvasser who has gained entrance to any residence, whether invited or not, shall immediately, and peacefully depart from the premises when requested to do so by the occupant.

E. It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to what area(s) of the Town they will be operating in.

§ **158-10 Restrictions on Methods of Solicitation.**

A. No solicitor or canvasser, licensed or exempted from licenses, may misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapters 93, 93A and 255D of General Laws.

B. No solicitor or canvasser licensed or exempted from license, may use any plan scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer goods or services.

C. No solicitor or canvasser, licensed or exempted from license, shall falsely represent, directly or by implication, that the solicitation or canvassing is being done on behalf of a governmental organization.

D. No solicitor or canvasser, licensed or exempted from license, shall solicit or canvass at any residence without express prior permission of an occupant, before 8:00 AM or after 8:30 PM where there is not a sign posted otherwise limiting solicitation or the hours of solicitation.

E. No solicitor or canvasser, licensed or exempted from license, shall go upon any residential premises and ring the doorbell or rap or knock upon the door of the residence or create any sound in any manner calculated to attract the attention of the occupant of such residence for the purpose of solicitation or canvassing in defiance of the notice exhibited at the residence in accordance with Section 9.

§ 158-11 Revocation of Licenses.

The Chief of Police is hereby vested with jurisdiction over the revoking of a registered solicitor for any violation of the provisions contained within this Bylaw or who knowingly provides false information on the registration application. Any person aggrieved by such revocation may appeal to the Town Manager within 7 business days in writing, and hearing will be scheduled within 5 business days.

§ 158-12 Penalty.

Any person or organization violating any of the provisions of this Bylaw shall be subject to a fine of \$100.00 for each offense. This penalty may be enforced under the provisions of the non-criminal disposition provisions contained in Article 1, Section 4.0 of the Town's General Bylaws.

The enforcement agent for purposes of this bylaw shall be the Police Chief or his designee. [Added: June 6, 2006 Annual Town Meeting – Article 10 – Approved by Attorney General October 16, 2006]

§ 158-13 Severability.

Invalidity of any individual provision of this Bylaw shall not affect the validity of the Bylaw, as a whole.

§ 158-14 Fees.

Any fines established by the Bylaw may be changed, from time to time, by an action of the Board of Selectmen.

Chapter 160

Stormwater Management & Erosion Control Bylaw

[HISTORY: Adopted by the Town of North Andover, Annual Town Meeting May 13,2009 Article 44 Approved by Attorney General September 2,2009]

- § 160-1 Purpose
- § 160-2 Definitions
- § 160-3 Authority
- § 160-4 Applicability
- § 160-5 Administration
- § 160-6 Permits & Procedures
- § 160-7 Fees
- § 160-8 Surety

160-1. Purpose

- A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:
 - 1. impairment of water quality in lakes, ponds, streams, rivers, wetlands and groundwater.
 - 2. decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - 3. contamination of drinking water supplies;
 - 4. erosion of stream channels;
 - 5. alteration or destruction of aquatic and wildlife habitat;
 - 6. flooding; and,
 - 7. overloading or clogging of municipal and private catch basins and storm drainage systems; and
 - 8. flooding and erosion on abutting properties.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the *Town of North Andover* water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

- B. The **objectives** of this Bylaw are to:

1. Protect water resources;
2. Require practices that eliminate soil erosion and sedimentation;
3. Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. Require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. Protect groundwater and surface water from degradation or depletion;
6. Promote infiltration and the recharge of groundwater;
7. Prevent pollutants from entering the municipal and private storm drain system;
8. Prevent flooding and erosion to abutting properties.
9. Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
10. Ensure adequate long-term operation and maintenance of stormwater best management practices;
11. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. Comply with state and federal statutes and regulations relating to stormwater discharges; and
13. Establish the legal authority of the Town of North Andover to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

160-2 Definitions

ABUTTER: The owner(s) of land abutting the land disturbance site.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (M.G.L. c. 131 § 40) and its implementing regulations (310 CMR 10.00).

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include, but are not limited to: change from distributed runoff to confined, concentrated discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Shall be the owner of record of all of the land shown on any plan submitted for approval to the Planning Board in accordance with the Stormwater Management Bylaw and Regulations, any person or persons acting on behalf of the applicant for purposes of preparing and submitting plans and documents to the Planning Board, and may include engineers, surveyors, contractors or attorneys, and may also include any person or persons having an equitable interest in the land under an agreement or option to purchase the land. The owner shall certify in writing the

identity of each applicant who is authorized to submit plans and/or documents and act on behalf of the owner. Without such certification an applicant shall not act on behalf of the owner. The applicant shall submit the title reference or references from the Essex County Registry of Deeds indicating the owner of record. All applications shall include original signatures of all owners.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

CLEARING: Any activity that removes the vegetative surface cover and/or organic layer. Clearing activities generally include grubbing activity as defined below.

DESIGN CRITERIA: Engineering design criteria as contained in the Stormwater Regulations authorized under this bylaw.

DETENTION: The temporary storage of storm runoff; used to control the peak discharge rates, and which provides settling of pollutants.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR: A Professional Engineer, or other trained professional approved by the Planning Board and retained by the holder of a Land Disturbance Permit to periodically inspect the work and report to the Planning Board.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance which allows an illicit discharge into the North Andover storm drain system, regardless of whether said connection was previously allowed, permitted or approved before the effective date of this Bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the North Andover storm drain system that is not composed entirely of stormwater, including without limitation sewage, process wastewater, or wash water, except as exempted in 160-4(D) of this Bylaw or in implementing regulations.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that limits water infiltrating the underlying soil. Impervious surface includes without limitation: roads, paved parking lots, sidewalks, sports courts and rooftops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LAND-DISTURBANCE PERMIT: A permit issued by the Planning Board.

LOT: An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings

LOW IMPACT DEVELOPMENT (LID): An approach to environmentally friendly land use planning and stormwater management that includes a suite of landscaping and design techniques that attempt to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques typically preserve natural drainage characteristics and/or capture water on site, filter it through vegetation, and let it soak into the ground where it can recharge the local water table rather than becoming surface runoff.

MASSACHUSETTS ENDANGERED SPECIES ACT: (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts

through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of North Andover.

OPERATION AND MAINTENANCE PLAN: A plan developed by a Massachusetts licensed professional engineer (PE) describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a discernible, confined point source or concentrated conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: Shall be the owner of record of all the land shown on any plan submitted. The owner shall submit the title reference or references from the Essex County Registry of Deeds (or Registry District of the Land Court if the land constitutes registered land) indicating the owner of record.

PERMITTEE: The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

PLANNING BOARD: The designees authorized to implement all actions and procedures authorized by the Bylaw. The Planning Board may, by majority vote at a

public meeting, delegate any of the responsibilities for the administration of this Bylaw to the Town Planner.

POINT SOURCE: Any discernible, confined, and concentrated conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, concentrated fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

PRIVATE STORM DRAIN SYSTEM or PRIVATE SEPARATE STORM SEWER SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system that is not owned and maintained by the Town.

RECHARGE: Addition of stormwater runoff to the groundwater by natural or artificial means.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESPONSIBLE PARTIES: The Applicant, Owner(s), persons with financial responsibility, and persons with operational responsibility.

RETENTION: The holding of stormwater runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Earth materials including duff, humic materials, sand, rock and gravel.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Stormwater runoff, snow melt runoff, surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN AND NARRATIVE: A document containing narrative, drawings and details prepared by a Massachusetts licensed qualified professional engineer (PE) which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TSS: Total Suspended Solids. Material, including but not limited to trash, debris, soils, sediment and sand suspended in stormwater runoff.

VERNAL POOLS: Vernal pools are seasonally wet basin depressions that do not support breeding populations of fish, because of periodic drying. Vernal Pools serve as breeding sites for unique organisms and may be protected by state, local and federal laws. Specifically Vernal Pools are isolated depressions or closed basins which temporarily confine water during periods of high water table and high input from spring runoff or snowmelt or heavy precipitation, and support populations of non-transient microorganisms, serve as breeding habitat for select species of amphibians or contain a variety of wetland plant species. They serve as temporarily flooded amphibian breeding habitat, as well as habitat for other wildlife. These pools are characteristically small; they rarely exceed 150 feet in width, however a given pool may vary in size from year to year depending on the amount of rainfall or snowmelt. In the absence of those habitat functions, the areas will be considered isolated vegetated wetlands. The existence of either a confined basin depression; evidence of amphibian and/or reptiles species that breed only in vernal pools; the presence of fairy shrimp or their eggs; or documented presence of water in a confined basin depression for at least two continuous months in the spring and/or summer will verify the existence of a vernal pool.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, or stream.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and Regulations promulgated thereunder and in the Town of North Andover Wetland Protection By-law and Regulations. Wetlands include: wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent communities in inland waters; that portion of any bank which touches any inland water.

160-3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

160-4 Applicability

Except as permitted by the Planning Board in a land disturbance permit or as otherwise provided in this Bylaw, no person shall perform any land disturbance involving disturbance of 43,560 square feet or more of land.

A. Regulated Activities. Regulated activities shall include:

1. Land disturbance of 43,560 square feet or more of land associated with construction or reconstruction of structures,
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 43,560 square feet or more of land,
3. Paving or other change in surface material over an area of 43,560 square feet or more of land,
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance draining an area of 43,560 square feet or more of land,
5. No person may create or maintain a direct connection or discharge to the MS4 without a Connection and Discharge Permit from the Department of Public Works.
6. Any other activity, on an area of land of 43,560 square feet or more, that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include, but are not limited to: change from distributed runoff to confined, concentrated discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.
7. The Town of North Andover is not exempt from the provisions of this Bylaw.

B. Exempt Activities. The following activities are exempt from the requirements of this Bylaw:

1. Normal maintenance and improvement of Town owned public or maintained ways and appurtenances to the public or maintained ways.
2. Normal maintenance and improvement of land in agricultural use.
3. Repair of septic systems when required by the Board of Health for the protection of public health.
4. Normal maintenance of currently existing landscaping, gardens or lawn areas associated with a single-family or two-family dwelling.
5. Activities for which the North Andover Conservation Commission and/or Massachusetts Department of Environmental Protection has issued an Order of Conditions under the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and Regulations promulgated thereunder and/or the Town of North Andover Wetland Protection By-law and Regulations.
6. Activities for which the North Andover Planning Board has issued an approval pursuant to a Special Permit (including Site Plan Review) as well as Definitive Subdivision Approval pursuant to the North Andover Planning Board Rules and Regulations Governing the Subdivision of Land.
7. Activities for which the North Andover Zoning Board of Appeals (ZBA) has issued a Comprehensive Permit pursuant to M.G.L Chapter 40B.
8. Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.

C. Prohibited Activities. The following activities are prohibited under this Bylaw:

- i. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4, into a watercourse, or into the waters of the Commonwealth.
- ii. Illicit Connections. No person shall construct, use, allow maintain or continue any illicit connection to the Municipal Storm Drain System, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- iii. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works.

D. Allowable Non-Stormwater Discharges. The following activities are allowed without the need for consultation with the Planning Board:

1. Discharge or flow resulting from fire fighting activities
2. Waterline flushing
3. Flow from potable water sources
4. Springs
5. Natural flow from riparian habitats and wetlands
6. Diverted stream flow

7. Rising groundwater
8. Uncontaminated groundwater infiltration as defined in CFR 35.2005(20), or uncontaminated pumped groundwater
9. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation
10. Discharge from landscape irrigation or lawn watering
11. Water from individual residential car washing
12. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand one week prior to draining and the pool is drained in such a way as not to cause a nuisance
13. Discharge from street sweeping
14. Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test
15. Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
16. Discharge for which advanced written approval is received from the Department of Public Works as necessary to protect public health, safety, welfare or the environment.

160-5. Administration

- A. The primary authority for the administration, implementation, and enforcement of section 160-4 shall lie with the Planning Board.
- B. The Planning Board and its agents shall review all applications for a land disturbance permit, conduct inspections, issue a final permit and conduct any necessary enforcement action.
- C. If not already required by another permitting agency, the Planning Board may retain at the applicant's expense, independent consultants as needed to advise the Committee on any and all aspects of a specified project. The Planning Board will accept the findings of any previous outside environmental review. Independent consultants may include but are not limited to Registered Professional Engineers and Environmental Site Monitors.
- D. The Planning Board may adopt and periodically amend Stormwater Regulations relating to Land Disturbance Permits, exemption or waiver applications; permit terms or conditions, Design Criteria, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), or other procedures and administration of this Bylaw after conducting a public hearing to receive

comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days before the hearing date, and a draft of the regulations proposed to be adopted shall be available to the public, including posting on the Town's website, by the date on which such advertisement is published in said newspaper. After public notice and hearing, the Planning Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

- E. The Planning Board will refer to the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy or with Design Criteria as described in North Andover's Subdivision Regulations, whichever is more stringent in the protection of the town's environmental and infrastructure resources, for execution of the provisions of this Bylaw.
- F. All meetings of the Planning Board are subject to the Open Meeting Law. Unless already reviewed by another permitting authority, a notice in the local newspaper of a hearing on the Land Disturbance Application and that the Planning Board is accepting comments on the Land Disturbance Application shall be published at the applicant's expense, at least five (5) business days before the hearing date. The Land Disturbance Application shall be available for inspection by the public during normal business hours at the Town offices. Comments may be submitted to the Planning Board during business hours at the Town offices.
- G. The Planning Board or its agent shall have the authority, with prior approval from the property owner, or pursuant to court process, to enter upon privately owned land for the purpose of performing their duties under this Bylaw.
- H. The Planning Board will accept the findings of any project previously review by Conservation or Planning for stormwater effects.
- I. The Planning Board may:
 - i. Approve the Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw;
 - ii. Approve the Application and issue a permit with conditions, modifications, requirements for operation and maintenance requirements of permanent structural BMPs, designation of responsible party, or restrictions that the Planning Board determines are required to ensure that the project will protect water resources and will meet the objectives and requirements of this Bylaw; or
 - iii. Disapprove the application and deny a permit if it finds that the proposed plan fails to meet the objectives and requirements of this Bylaw and its

Regulations. If the Planning Board finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Planning Board may disapprove the application, denying a permit.

- J. The Planning Board shall take final action on an Application within 60 days of receipt of a complete application. If, in the Planning Board's opinion, additional time or information is required for review, the Planning Board by written agreement of the applicant may continue a consideration of the request to a date certain announced at the meeting.
- K. Failure to take action within the time provided by this Bylaw shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without the Planning Board's action, the Land Disturbance Permit shall be issued by the Planning Board.
- L. Appeals of Action by the Planning Board. A written decision of the Planning Board shall be final when it is executed by the Planning Board or its chair or acting chair and filed in the Town Clerk's office. Further relief of a decision by the Planning Board made under this Bylaw shall be reviewable in the Superior Court or Land Court in accordance with applicable law. Appeal action shall be filed within 60 days of issuance in accordance with M.G.L. Ch 249 § 4. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law. No work shall commence until the applicable appeal period has passed with no appeal or if an appeal has been filed, the appeal has been finally resolved by adjudication or otherwise.
- M. All activity, exclusive of maintenance required in perpetuity, permitted by the Land Disturbance Permit must be completed within two years of permit issuance. Extensions of time can be granted by the Planning Board upon formal written request by the applicant. Upon the expiration of one year from the date of permit issuance if an extension has not been granted the permit shall be considered to be revoked.
- N. The Stormwater Management Permit shall be recorded at the Essex North District Registry of Deeds at the Applicant's expense and proof of recording provided to the Planning Board prior to the commencement of any work under the Permit.
- O. The Planning Board will issue a Certificate of Completion upon receipt and approval of final reports and documentation as outlined in the Regulations and/or upon otherwise determining that all work of the permit has been satisfactorily completed in accordance with this Bylaw. The Certificate of Completion shall be recorded at the Essex North District Registry of Deeds (or Registry of District of the Land Court, if registered land) at the applicant's expense and proof of recording provided to the Planning Board.

160-6. Permits & Procedures

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 5 of this Bylaw.

160-7. Fees

The Planning Board shall establish fees, subject to approval of the Board of Selectmen, to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover Town secretarial staff and professional staff and any such other direct and indirect costs to the Town of processing and receiving the applications. Provided that a revolving fund is established by the Town in accordance with the provisions of M.G.L. Chapter 44, Section 53E½, the Planning Board is also authorized to collect fees from the applicant in amounts sufficient to pay a Registered Professional Engineer and such other professional consultants as the Planning Board requires to advise the Planning Board on any and all aspects of the project. The fees for such professional engineers and consultants shall be paid to the Town for deposit into the revolving fund.

160-8. Surety

Unless otherwise posted with the town as a separate “site opening bond” specifically dedicated to the compliance with the intent of this by-law, the Planning Board may require the applicant to post before the start of land disturbance activity, a surety bond, or other acceptable security. The form of the bond shall be approved by the Planning Board, and be in an amount deemed sufficient by the Planning Board to insure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Planning Board has issued a certificate of completion.

160-9. Waivers

- A. The Planning Board may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where the activity:
 - 1. Is allowed by federal, state or local statutes and/or regulations, or
 - 2. Is in the public interest, and is not inconsistent with the purpose and intent of this bylaw and its regulations.
- B. Any applicant may submit a written request to be granted such a waiver at the time of submission. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that the activity is allowed by federal, state or local statutes and/or regulations or is in the public interest and is not inconsistent with the purpose and intent of this bylaw and its regulations.

- C. All waiver requests shall be discussed and a decision will be made at the time of final action by the Planning Board.
- D. If in the Planning Board's opinion, additional information is required for review of a waiver request; the Planning Board may continue a consideration of the waiver request to a date certain announced at the meeting. In the event the applicant fails to provide requested information, the waiver request shall be denied. Any additional time required by this request, will extend the dead line for issuance of a decision by the amount of time required to consider said request.

160-10. Enforcement

- A. The Planning Board or its authorized agent shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders. The Planning Board or its authorized agent may issue a written order to enforce the provisions of this Bylaw or the regulations there under, which may include:
 - 1. A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or provisions of the land-disturbance permit;
 - 2. Maintenance, installation or performance of additional erosion and sediment control measures;
 - 3. Monitoring, analyses, and reporting;
 - 4. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
- C. Compliance with the Operation and Maintenance Plan.
 - 1. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.
- D. Fines. Unless already being fined for the same offense by some other town regulatory body, any person who violates any provision of this Bylaw, regulation, order or permit issued there under, shall be punished by a fine of \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate violation.
- E. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Planning Board may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, which has been adopted by the Town, in which case the Planning Board or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate violation.

11. Severability

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

Chapter 161

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town of North Andover as Chapter 5, Section 5.1 of the General Bylaws. [Added:December 5, 2005 Special Town Meeting – Article 14 – Add Section 6 - Approved by Attorney General April 3, 2006][Added:December 5, 2005 Special Town Meeting – Article 15 – Add Section 7- Approved by Attorney General April 3, 2006] [Amendments noted where applicable.]

§ **161-1 Authority to Regulate; Penalties**

§ **161-2 Snow and Ice Removal**

§ **161-3 Street Excavation Permit**

§ **161-4 Driveway Permits**

§ **161-5 Leaf Regulations - Penalties**

§ **161-6 Repairs to Private Ways**

§ **161-7 Consideration of Street Acceptances Under A Single Article**

§ **161-1 Authority to Regulate; Penalties.**

A. The Selectmen may make such rules and regulations as they deem necessary, under the revised laws, in relation to the passage of vehicles through the streets and ways of the town.

B. Any violation of said rules and regulations shall be punished by a fine of not less than one dollar (\$1) nor more than twenty dollars (\$20).

§ **161-2 Snow and Ice Removal.**

No snow or ice shall be deposited upon any portion of a way open to public travel for the safe maintenance of which the town is responsible, except by town employees acting in the proper performance of their duties. This provision shall not prohibit an occupant of premises abutting upon such a way from clearing snow or ice from a sidewalk in front of such premises, or from that part of any driveway or other means of access from such premises to the way, provided that such clearing does not result in a narrowing of the traveled portion of the way as defined by prior snow removal procedures performed by town employees.

§ **161-3 Street Excavation Permit.**

No person shall make any excavation or other substantial change in a town way open to public travel without first obtaining a permit thereof from the Director of Public Works. Such a permit shall be granted only upon a written application therefor, which shall contain such information as to the proposed excavation change as the Director of Public Works may require, and the permit may contain

any reasonable requirements, including the applicant's procurement of an adequate performance bond assuring his compliance with such requirements, the amount of such bond to be set by the Director of Public Works. In the event that such excavation cannot be completed within twelve (12) hours, the Director of Public Works shall forthwith make all necessary repairs to the town for the incident expenses.

§ **161-4 Driveway Permits.**

No driveway or other means of access to privately owned property from any public way or any way maintained by the town or shown on an approved subdivision plan shall be constructed unless a permit for its entry into said way shall first have been issued by the Director of Public Works.

§ **161-5 Leaf Regulations – Penalties.**

[Amended: Annual Town Meeting May 2, 1994, Article 30]

No leaves shall be raked, swept, or deposited into piles curbside or on any property other than the owner's without permission. Any violation of this ordinance will be punishable by a fine of **\$200.00** or any amount set by the Board of Selectmen.

The Enforcement Agent for purposes of this Bylaw shall be the Police Chief or his designee. [Added: June 6, 2006 Annual Town Meeting – Article 10 – Approved by Attorney General October 16, 2006]

§ **161-6 Temporary Repairs on Private Ways.**

In accordance with the provisions of Massachusetts General Laws Chapter 40, Section 6N, the Town may make temporary repairs on private ways under the following conditions:

1. The type and extent of the repairs authorized by this bylaw shall be any and all repairs, including drainage work, necessary for safe and convenient travel by the public, up to and including work that would be required to make the private way suitable to be accepted as a public way.
2. The Director of Public Works, with the approval of the Board of Selectmen, shall authorize such repairs, and shall determine whether the repairs are required by public necessity.
3. No petition by abutters shall be required for such repairs.
4. No betterment charges shall be assessed, and no cash deposits shall be required.
5. The Town shall not be liable in any manner or amount on account of any damages caused by such repairs.

6. Such repairs shall be performed only on ways that have been open to public use for at least 6 years, as determined by the Board of Selectmen.
7. No repairs or improvements shall be done on any private ways where the owners of the private way or their successors have agreed by covenant, Planning Board Decision, or any other form of agreement that the Town shall not provide street repair or improvement services.

[Added:December 5, 2005 Special Town Meeting – Article 14 – Approved by Attorney General April 3, 2006]

§ **161-7 Consideration of Street Acceptances Under A Single Article.**

The Town Meeting may vote under a single Article in the warrant to accept streets as public ways. Such Article shall be submitted by the Board of Selectmen and shall contain a listing of the names, locations and descriptions of all streets to be laid out by the Board of Selectmen at a meeting held for that purpose pursuant to statute prior to the Town Meeting. The Town Meeting may vote to remove or reject any street or streets from the Article by amendment prior to the vote on the entire Article. The representative of the owner of any street listed in the Article shall be present at the Town Meeting for purposes of addressing the question should the need arise.

[Added:December 5, 2005 Special Town Meeting – Article 15 – Approved by Attorney General April 3, 2006]

CHAPTER 170

UNDERGROUND UTILITIES

[HISTORY: Adopted by the Town of North Andover as Chapter 170, of the General Bylaws. Annual Town Meeting – May 12 1999 – Approved by Attorney General – July 27, 1999] [Amended by Articles 20 and 21 2001 Annual Town Meeting. Approved by Attorney General September 12, 2001.] [Section E - Amended by Article 20 November 17, 2003 Special Town Meeting. Approved by Attorney General January 22, 2004.]

Chapter 170 - Underground Utilities Bylaw of the Town of North Andover Code, subject to the provision of Massachusetts General Laws, Chapter 166, Section 22A – 22N, inclusive, forbidding new construction of overhead wires and structures and/or requiring the removal of overhead wires and structures and replacement with underground conduit and facilities in portions of North Andover, including but not limited to the Downtown Business District and the Old Town Center/Historic District.

Section 1. Definitions

For purposes of this Bylaw, the definitions of “person”, “poles and overhead wires and associated overhead structures” and “utility” shall be the same definitions as those set forth in Section 22A of Chapter 166 of the General Laws.

Alternative Coordination Plan - A plan to coordinate the implementation of the utility specific plans required by this underground bylaw. In the event that the utilities and the Town are not able to reach agreement on any aspects of a negotiated project coordination plan, the Town will use reasonable discretion to establish an alternative coordination plan. The objective of this alternative coordination plan will be to use a single qualified general contractor to perform the excavation and civil work necessary for the installation of all of the underground facilities, including cable facilities, electric facilities, telephone facilities, and municipal facilities, contemplated by this underground bylaw, as well as a proposed formula for apportioning the cost of that qualified general contractor. This alternative project coordination plan will assume that each utility will directly install and energize its own cable and wire in the conduits and manholes constructed by the qualified general contractor. In establishing such alternative coordination plan, the Town shall be guided by the objective of achieving efficient coordination among the utilities, a cost effective underground project, with the minimum disruption of the public way.

Company Specifications - Detailed specifications provided by the each utility regarding the number and size of duct banks, the type and quantity of cable or wire, and the number and precise specifications of manholes and hand holes, the description of and quantification of the equipment necessary to construct and

install customer's service facilities, and all other specifications regarding all other facilities necessary to replace overhead service in the area of the community covered by this bylaw, with underground service, all prepared in sufficient detail to be included in a request for bid for a qualified general contractor.

Cost Per Linear Foot - When reporting the cost of demolition or construction per linear foot, the cost should be reported per linear foot of the overhead or underground system. For example the 1,000 feet of overhead or underground facilities that are located on 1,000 feet of one side of a public way would be reported as 1,000 feet of overhead facilities or underground facilities removed or constructed. If a particular utility has two lines or two conduits on a given set of poles or in a given duct bank, and therefore 2,000 feet of overhead wire or underground wire in this 1,000 foot span of the public way, the cost per linear foot must be reported using the 1,000 feet of the public way as the denominator, and must not be reported using the 2,000 feet of wire as the denominator.

Customer's Service Facilities - The facilities required to connect a customer's building or structure to the underground service mandated by this bylaw, which customer's service facilities are more specifically defined in Section 22I of Chapter 166 of the Massachusetts General Laws;

Direct Cost of Demolition and Construction - The direct cost of construction labor, construction materials, and construction equipment used to implement the demolition and construction mandated by this bylaw. This shall include the direct cost of construction labor, construction materials, and construction equipment used to install the customer's service facilities defined by Section 22I of Massachusetts General Laws Chapter 166. Direct costs of demolition and construction shall also include the following costs: (A) the direct cost of completing an "Existing Conditions Plan", to the extent such cost is incurred at the request of the Town in order to expedite the schedule for the underground project, or incurred directly by the Town in order to expedite said schedule, and then reimbursed by the utility; (B) interest on any amounts spent for such direct costs in excess of the two (2%) annual expenditure required by Section 5A of this bylaw, to the extent such excess expenditure is directly associated with in an effort expedite the actual construction schedule at the request of the Town. (C) The direct cost of any communication ducts installed at the request of the Town, which communication ducts are to be reserved municipal use.

Petition - The petition, timely filed, that is required by section 22D of Massachusetts General Laws Chapter 166, and Section 5B clause (1) of this bylaw, relating to the permission to install underground facilities mandated by this by-law. Such petition shall request permission for the shared use of common duct banks and common trenches by and among other utilities and the Town, or include a justification explaining why such shared use of common duct banks and common trenches is not possible.

Plan for Continuation of its Services, for their Replacement with Underground Facilities - The plan, timely filed, that is required by section 22D of G.L. Chapter 166, and Section 5B clause (2) of this bylaw, relating to the removal of that particular utility's overhead wires and associated overhead equipment and the construction of a particular utility's underground equipment to provide service to consumers in the geographic area covered by this by-law. This utility specific plan that meets the requirements of this bylaw must include at a minimum the following required components:

- 1) The company's specifications for the underground project;
- 2) An estimate of the total direct cost of demolition and construction of the project which includes the cost of installing customer's service facilities;
- 3) An estimate of the total salvage value of the overhead property to be removed;
- 4) A statement of the total company revenues received in the community in the preceding calendar year, and an estimate of the total company revenues to be received in the community in the current year;
- 5) An estimate of the total duration of the demolition and construction project assuming that the company allocates and expends 2% of such annual revenues (plus the reasonable salvage value of the removed overhead equipment) to the direct cost of demolition and construction of that company's project;
- 6) A proposed coordination plan that describes a plan for utilizing a single qualified general contractor to perform the excavation and civil work necessary for the installation of all of the underground facilities, including cable facilities, electric facilities, telephone facilities, and municipal facilities, contemplated by this underground by-law, as well as a proposed formula for apportioning the cost of that qualified general contractor among the various users of the underground facilities constructed;
- 7) A statement that the utility will participate in good faith in a negotiation conducted by the Town, that includes all of the utilities covered by this bylaw, in which the Town attempts to develop a negotiated coordination plan that is acceptable to each utility and to the Town;

- 8) A statement that the company's plan will be implemented in a fashion that complies with any alternative coordination plan that may be established by the Town;

Such plan must be filed no later December 31 of the calendar year prior to the calendar year in which the first expenditures for the direct cost of demolition and construction are required to be made.

Negotiated Project Coordination Plan - The Town will review the coordination plans that are included in the cable company plan, electric company plan, and telephone company plan filed with the Board of Selectmen pursuant to this by law. The Town will host a project coordination meeting to be attended by representatives of the Town and each of said utilities, and use reasonable efforts to negotiate project coordination plan that is acceptable to each of said utilities and the Town. The objective of this negotiated coordination plan will be to use a single qualified general contractor to perform the excavation and civil work necessary for the installation of all of the underground facilities, including cable facilities, electric facilities, telephone facilities, and municipal facilities, contemplated by this underground by-law, as well as a proposed formula for apportioning the cost of that qualified general contractor. This negotiated project coordination plan will assume that each utility will directly install and energize its own cable and wire in the conduits and manholes constructed by the qualified general contractor. In negotiating such coordination plan, the Town shall be guided by the objective of achieving efficient coordination among the utilities, a cost effective project, with the minimum disruption of the public way.

Qualified General Contractor - A contractor with extensive experience in designing and constructing underground utilities in Massachusetts, as evidenced by letters of recommendation from Massachusetts utilities that have contracted for the services of such qualified general contractor in the past.

Statement – Annual statement, timely filed, that is required by section 22D of Chapter 166 of the Massachusetts General Laws, and Section 5B clause 4 of this bylaw. This annual statement must, at a minimum, include the following information regarding the removal of overhead facilities and construction of replacement underground facilities, completed by said utility in the prior calendar year:

1.
 - a) Linear feet of overhead facilities removed;
 - b) Street names on which such removal occurred;
 - c) Direct cost of demolition associated with such removal for the calendar year in question;

- d) Direct cost of demolition associated with such removal per linear foot of overhead facilities removed;
- 2.
 - a) Linear feet of underground facilities constructed;
 - b) Street names on which underground construction occurred;
 - c) Direct cost of construction for the calendar year in question;
 - d) Direct cost of construction per linear foot of such construction completed;
- 3.
 - a) Number of customer service facilities completed;
 - b) Street names on which customer service facilities occurred;
 - c) Direct cost of construction associated with customer service facilities demolition and construction spent in any year prior to the preceding calendar year, which amount was in excess of the 2% of the standard defined in section 22D of Chapter 166 of the General Laws, and which excess amount the utility is allocating as a credit to reduce the dollar expenditures required by this by-law for the direct cost of demolition and construction in the calendar year that is the focus of this financial report;
- 4.
 - a) The dollar amount of the direct cost of demolition and construction spent in any year prior to the preceding calendar year, which amount was in excess of the 2% of the standard defined in section 22D of Chapter 166 of the General Laws, and which excess amount the utility is allocating as a credit to reduce the dollar expenditures required by this by-law for the direct cost of demolition and construction in the calendar year that is the focus of this financial report;
- 5.
 - a) Gross Revenues derived from that utility's customers in North Andover in the calendar year preceding the expenditures reported in items 1, 2, and 3 above;
 - b) Representation that the amounts spent by such utility for the direct cost of demolition and construction, as itemized above, in items 1, 2, and 3 plus any credit as described in item 4, equals or exceeds 2% of the gross revenue reported in 5a) above.

Section 2. Prohibiting Installation of New Poles and Overhead Wires

No utility shall install or construct, except by way of replacement or upgrading of existing facilities, any poles and overhead wires and associated overhead structures upon, along or across any public way within the parts of the Town listed in Section 3. Any poles and overhead wires and associated overhead structures installed or constructed in violation of this bylaw shall be immediately removed by the utility responsible therefor.

Section 3. Applicability of Section 2 applies to the following parts of Town:

- A. Any new public way approved by the Planning Board to the extent it is exclusively situated in an approved residential or non-residential subdivision.
- B. Any way in which the wires and utility facilities are underground as of the effective date of this bylaw.
- C. Downtown Area: Main Street from Sutton Street to Merrimac Street, including 200 feet from Main Street on the following side streets; Waverley Road, First Street, and Second Street, *all of School Street*, and on Water Street from Main Street to High Street. **[Added – June 6, 2006 Annual Town Meeting-Article 44-Approved by Attorney General October 16, 2006]** Any new public way approved by the Planning Board to the extent it is exclusively situated in an approved residential or non-residential subdivision.
- D. Any way in which the wires and utility facilities are underground as of the effective date of this bylaw.
- E. Downtown Area: Main Street from Sutton Street to Merrimac Street, including 200 feet from Main Street on the following side streets; Waverley Road, First Street, and Second Street, *all of School Street*, and on Water Street from Main Street to High Street. **[Added – June 6, 2006 Annual Town Meeting-Article 44-Pending AG Approval]**
- D. Old Common Area: along the former Essex Street from Academy Road to Great Pond Road; along Osgood Street from Bay State Road to the intersection of Andover Street. Along Andover Street from Academy Road to the intersection with Chestnut Street, along Massachusetts Avenue from 200 feet northwest of the intersection with Osgood Street through the Old Center to Salem Street and Johnson Street to Milk Street and along Great Pond Road from Academy Road 200 feet to the east toward Stevens Street. **[Added by Article 21 2001 Annual Town Meeting. Approved by Attorney General September 12, 2001][Amended May 10, 2004 Annual Town Meeting - Article 34-Approved by Attorney General August 19, 2004]**
- E. Those portions of the Lincoln Line that cross or are within the public way of the Lincoln Line from Dale Street substation South East to the corner of Salem and Foster, South West beyond Raleigh Tavern Lane and from the Woodchuck Hill substation to the corner of Salem and Foster Streets.

[Section E -Amended by Article 20 November 17, 2003 Special Town Meeting. Approved by Attorney General January 22, 2004.]

- F. Any new public way approved by the Planning Board to the extent it is exclusively situated in an approved residential or non-residential subdivision.
- G. Any way in which the wires and utility facilities are underground as of the effective date of this bylaw.
- H. Downtown Area: Main Street from Sutton Street to Merrimac Street, including 200 feet from Main Street on the following side streets; Waverley Road, First Street, and Second Street, *all of School Street*, and on Water Street from Main Street to High Street. **[Added – June 6, 2006 Annual Town Meeting-Article 44-Pending AG Approval]**
- F. Old Common Area: along the former Essex Street from Academy Road to Great Pond Road; along Osgood Street from Bay State Road to the intersection of Andover Street. Along Andover Street from Academy Road to the intersection with Chestnut Street, along Massachusetts Avenue from 200 feet northwest of the intersection with Osgood Street through the Old Center to Salem Street and Johnson Street to Milk Street and along Great Pond Road from Academy Road 200 feet to the east toward Stevens Street. **[Added by Article 21 2001 Annual Town Meeting. Approved by Attorney General September 12, 2001][Amended May 10, 2004 Annual Town Meeting - Article 34- Approved by Attorney General August 19, 2004]**
- G. Those portions of the Lincoln Line that cross or are within the public way of the Lincoln Line from Dale Street substation South East to the corner of Salem and Foster, South West beyond Raleigh Tavern Lane and from the Woodchuck Hill substation to the corner of Salem and Foster Streets.

[Section E -Amended by Article 20 November 17, 2003 Special Town Meeting. Approved by Attorney General January 22, 2004.]

- H. Old Common Area: along the former Essex Street from Academy Road to Great Pond Road; along Osgood Street from Bay State Road to the intersection of Andover Street. Along Andover Street from Academy Road to the intersection with Chestnut Street, along Massachusetts Avenue from 200 feet northwest of the intersection with Osgood Street through the Old Center to Salem Street and Johnson Street to Milk Street and along Great Pond Road from Academy Road 200 feet to the east toward Stevens Street. **[Added by Article 21 2001 Annual Town Meeting. Approved by Attorney General September 12,**

**2001][Amended May 10, 2004 Annual Town Meeting - Article 34-
Approved by Attorney General August 19, 2004]**

- I. Those portions of the Lincoln Line that cross or are within the public way of the Lincoln Line from Dale Street substation South East to the corner of Salem and Foster, South West beyond Raleigh Tavern Lane and from the Woodchuck Hill substation to the corner of Salem and Foster Streets.

[Section E -Amended by Article 20 November 17, 2003 Special Town Meeting. Approved by Attorney General January 22, 2004.]

Section 4. Violation of Section 2

Any person who installs or constructs and poles and overhead wires and associated overhead structures which are in violation of Section 2 shall be punished by a fine of not less than one thousand (\$1,000.00) dollars and not more than five thousand (\$5,000.00) dollars.

Any person who fails to remove immediately any poles and overhead associated overhead structures which are in violation of Section 2 shall be punished by a fine of not less than one thousand (\$1,000.00) dollars and not more than five thousand (\$5,000.00) dollars for each consecutive fifteen day period during which the failure continues.

Section 5. Removal of Existing Poles and Overhead Wires

- A. Any utility presently owning or operating poles and overhead wires and associated overhead structures along or across any public way within the parts of the Town listed in Section 3 on May 3, 1999 shall begin to remove such poles and overhead wires and associated overhead structures following the effective date of this bylaw in accordance with M.G.L. Chapter 166, Section 22D.

In preparation for making the minimum expenditures required by Section 5A, each utility covered by this bylaw, shall, file with the Board of Selectmen the petition as required by Section 22 of Chapter 166 of the Massachusetts General Laws, and by Section 5B, clause (1) of this bylaw, and also file the plan as required by Section 22D of Chapter 166 of the Massachusetts General Laws, and by Section 5B clause (2) of this bylaw. In order to enable the Town to monitor compliance with this bylaw, each utility covered by this bylaw shall file the statement with the Board of Selectmen, that is required by Section 22D of Chapter 166 of the Massachusetts General Laws, and Section 5B, clause (4) of this bylaw. Any petition, plan, or statement filed by a utility pursuant to this bylaw must meet the minimum content requirements and timely filing requirements defined in this bylaw. [Amended by Article 20 2001 Annual Town Meeting. Approved by Attorney General September 12, 2001]

B. Any utility that fails to remove any poles or overhead wires and associated overhead structures required to be removed; pursuant to Section 5A of this bylaw shall be punished by fine of not less than one thousand (\$1,000.00) dollars and not more than five thousand (\$5,000.00) dollars for each consecutive fifteen day period during which such failure continues; provided however, that no utility shall have been deemed to have violated this bylaw, provided that:

- 1) If replacement facilities for poles or overhead wires and associated overhead structures required to be removed will be needed in order for a utility to continue its service, the utility shall, within sixty (60) days after the effective date of this bylaw, petition the Board of selectmen pursuant to Section 22 of Chapter 166 of the General Laws for permission to install, erect, or construct under the public ways replacement facilities for such poles and overhead wires and associated structures; and
- 2) The utility shall file with the Board of Selectmen a plan (which shall be consistent with Section 5A of this bylaw), for continuation of its service, for their replacement with underground facilities; and
- 3) In each calendar year beginning with the calendar year next following the effective date of this bylaw and until all such poles and overhead wires and associated overhead structures shall have been removed, the utility shall in carrying out its plan, allocate and expend for the direct cost of demolition and construction (over and above the reasonable value of salvage) an amount which shall not be less than two percent (2%) of its gross revenues derived during the next preceding calendar year from its customers in the Town of North Andover; and
- 4) The utility shall, on or before the last day of March in each year, file with the Board of Selectmen a statement signed under the penalties of perjury, by its Treasurer setting forth in detail, the amounts spent by the utility during the immediate preceding calendar year in carrying out its plan; the purposes for which such expenditures were made; the gross revenues derived from its customers in the Town during the immediately preceding calendar year; provided, however, that no utility which enters into a cooperation agreement under Section 22E of Chapter 166 of the General Laws shall be deemed to have violated this bylaw during the term such payments are to be made, so long as said utility shall not be in default of said cooperation agreement.

C. Notwithstanding the effective date of this bylaw, any utility may, in its sole discretion, cooperate with the Town's plans for early construction and may

commence the removal of its poles, overhead wires and associated overhead structures and proceed to perform the undergrounding work following this bylaw's adoption and prior to its effective date. Any such early cooperation by any utility will be subject to the utility's rights to recover its expenditures and impose and collect a billing surcharge under M.G.L. Chapter 166, Sections 2D and 22M.

Section 6. Installation of Customer's Service Facilities

Any utility providing underground replacement facilities pursuant to this bylaw, shall also install customer's service facilities as defined by Section 22I of chapter 166 of the General Laws. Such installation of customer's service facilities shall be incorporated into the plan filed with board of selectmen pursuant to Section 5B clause (2) of this bylaw, and the cost associated with such installation of customer's service facilities shall be included in the report of direct cost of demolition and construction reported to the board of selectmen pursuant to Section 5B clause (4) of this bylaw. It is the intent of this Section that the cost of the installation of customer service facilities shall be reimbursed to the utility through the 2% surcharge contemplated by section 22D of Chapter 166 of the General Laws.

Section 7. Severability

If any provision of this bylaw is determined to be invalid, such determination shall not affect the validity of the other provisions of this bylaw, which other provisions shall remain in full force and effect.

Chapter 173

VEHICLES AND TRAFFIC

ARTICLE I

HANDICAPPED PARKING

[HISTORY: Adopted by the Town of North Andover: Article I, April 26, 1986 Annual Town Meeting, Article 42. Amendments noted where applicable.]

[Adopted April 26, 1986 Annual Town Meeting, Article 42]

- § 173-1 Provision Authorized
- § 173-2 Determination of Number of Spaces
- § 173-3 Signs and Markings
- § 173-4 Spaces Required

§ 173-1 **Provision Authorized.**

Designated parking spaces for vehicles owned and operated by disabled veterans or by handicapped persons and bearing the distinctive number plates authorized by Massachusetts General Laws C. 90, Sec. 2 shall be provided in public and private off-street parking areas in accordance with this Article.

§ 173-2 **Determination of Number of Spaces.**

Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings or for any other place where the public has a right of access as invitees or licensees, shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Massachusetts General Laws Chapter 90, §2, according to the following formula:

If the number of parking spaces in any such area is more than fifteen (15) but not more than twenty-five (25), one (1) parking space; more than twenty-five (25) but not more than forty (40), five percent (5%) of such spaces but not fewer than two (2); more than forty (40) but not more than one hundred (100), four percent (4%) of the spaces but not fewer than three (3); more than one hundred (100) but not more than two hundred (200), three percent (3%) of such spaces but not fewer than four (4); more than two hundred (200) but not more than five hundred (500), two percent (2%) of such spaces but not fewer than six (6); more than five hundred (500) but not more than one

thousand (**1,000**), one and one half percent (**1 1/2%**) of such spaces but not fewer than ten (**10**); more than one thousand (**1,000**) but not more than two thousand (**2,000**), one percent (**1%**) of such spaces but not fewer than fifteen (**15**); more than two thousand (**2,000**), but fewer than five thousand (**5,000**), three fourths (**3/4**) of one percent (**1%**) of such spaces but not fewer than twenty (**20**); and more than five thousand (**5,000**), one-half of one percent (**1%**) of such spaces but not fewer than thirty (**30**).

§ 173-3 Signs and Markings.

Parking spaces designed as reserved under the provisions of Section 173-2 shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words “Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner’s Expense”; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve (**12**) feet wide or two (**2**) eight-foot-wide areas with four (**4**) feet of cross hatch between them.

§ 173-4 Spaces Required.

Any owner of a place to which the public has a right of access licensees or invitees shall provide, install and maintain “Handicapped Parking” signs and pavement markings as set forth in Section 173-3.

Chapter 175

VEHICLES, STORAGE OF

[HISTORY: Adopted by the Town of North Andover as Chapter 6, Section 6.3 of the General Bylaws. Amendments noted where applicable.]

- § 175-1 **Restricted Activity**
- § 175-2 **Exceptions**
- § 175-3 **Violations and Penalties**

§ 175-1 **Restricted Activity.**

No person shall accumulate, keep, store, part, place, repair, deposit, or permit to remain upon premises owned by him or under his control, more than one (1) unregistered vehicle or any dismantled, unserviceable, junked or abandoned motor vehicle unless he is licensed to do so under the General Laws or unless he has received written permission to do so from the Board of Selectmen after a hearing. Written permission may only be granted by said Board on condition that the owner agrees to screen the permitted vehicle or vehicles from view from neighboring land, ways or public highways for breach of which agreement said permission shall be revoked.

§ 175-2 **Exceptions.**

This chapter shall not apply to agricultural vehicles in use on an operating farm.

§ 175-3 **Violations and Penalties.**

Whoever violates or continues to violate this chapter after having been notified of such violation shall be punished by a fine of fifty dollars (\$50.) Each week during which such violation is permitted to continue shall be deemed to be a separate offense.

CHAPTER 177

WATER USE RESTRICTION BYLAW

[HISTORY: Adopted by the Town of North Andover as Article 18 and Article 19 2001 Annual Town Meeting. Approved by Attorney General September 18, 2001. Amendments noted where applicable.]

- §177-1 Authority**
- §177-2 Purpose**
- §177-3 Definitions**
- §177-4 Declaration of State of Water Supply Conservation**
- §177-5 Restricted Water Uses**
- §177-6 Public Notification of State of Water Supply Conservation**
- §177-7 Termination of State of Water Supply Conservation - Notice**
- §177-8 State of Water Supply Emergency - Compliance with DEP Orders**
- §177-9 Violation and Penalties**
- §177-10 Severability**

§177-1 Authority.

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under Massachusetts General Laws Chapter 40, Section 21 et seq. and implements the Town's authority to regulate water use pursuant to Massachusetts General Law Chapter 41, Section 69B. This bylaw also implements the Town's authority under Massachusetts General Laws Chapter 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

§177-2 Purpose.

The purpose of this bylaw is to protect, preserve and maintain public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

§177-3 Definitions.

Person - Shall mean any individual, corporation, trust, partnership or association, or other entity.

Public Water Supply - Shall mean the North Andover Municipal Water Supply System withdrawing water from Lake Cochichewick.

State of Water Supply Emergency - Shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under Massachusetts General Laws Chapter 21G, Sections 15-17.

State of Water Supply Conservation - Shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 177-4 of this bylaw.

Water Users or Water Consumers - Shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility/location.

Director - Shall mean the Director of the Division of Public Works for the Town of North Andover.

§177-4 Declaration of State of Water Supply Conservation.

The Town, through the Board of Selectman, may declare a State of Water Supply Conservation within the Town's Public Water System upon a determination by the Director that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Supply Conservation shall be given under Section 177.6 of this bylaw before it may be enforced.

§177-5 Restricted Water Uses.

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the public water supply. The applicable restrictions, conditions or requirements shall be included in the Public Notice required under Section 177.6.

1. **Outdoor Water Use Hours** – Outdoor water use by water users is permitted only during daily periods of low demand, at night or early morning.
2. **Odd/ Even Day Outdoor Water Use** – Outdoor water use by water users with odd numbered addresses is restricted to odd numbered days. Outdoor water use by water users with even numbered addresses is restricted to even number days.
3. **Outdoor Water Use Ban** – Outdoor water use by water users is prohibited.

§177-6 Public Notification of State of Water Supply Conservation

Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of town water of the State of Water Supply Conservation. Any restriction imposed under Section 177.5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 177.6.

§177-8 State of Water Supply Emergency: Compliance with DEP Orders.

Upon notification to the public that the Department of Environmental Protection has issued a State of Water Supply Emergency, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Water Supply Emergency.

§177-9 Violation and Penalties.

Any person violating this bylaw shall be subject to a warning for the first offense and thereafter shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100 for each subsequent violation, which shall inure to the Town for such uses as the Board of Selectmen may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the provisions of the Massachusetts General Laws. For purposes of non-criminal disposition, the enforcing person(s) shall be any police officer of the Town of North Andover. Each day of violation shall constitute a separate offense.

§177-10 Severability

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

ARTICLE II

AUTOMATIC LAWN IRRIGATION SYSTEM

- §177-11 Registration**
- §177-12 Backflow Prevention**
- §177-13 Rain Sensors.**
- §177-14 Violations and Penalties**
- §177-15 Severability**

§177-11 Registration.

All automatic lawn irrigation systems connected to the municipal water system of the Town of North Andover shall be registered with the Division of Public Works (DPW). A fee may be charged for this registration. The Board of Selectmen shall set registration fees.

§177-12 Backflow Prevention.

The Town of North Andover shall be protected from a backflow condition from all automatic lawn irrigation systems connected to the municipal water system by the installation of a backflow prevention device approved by the Division of Public Works. Each backflow prevention device shall be registered with the Division of Public Works.

All new or existing residential, municipal, commercial and industrial property owners are required to install or have in place, a backflow prevention device on their automatic lawn irrigation system. The installation shall be in compliance with 310 CMR 22.22. These devices must be installed on the discharge side of the water meter, preferably indoors, but can be located outside provided they can easily be removed to protect them from damage by freezing.

Reduced Pressure Zone and Pressure Vacuum Breaker type devices shall be tested upon initial installation and thereafter in accordance with 310 CMR 22.22

§177-13 Rain Sensors.

Installation of new automatic lawn irrigation systems connected to the municipal water supply in the Town of North Andover shall be equipped with a rain sensor approved by the Division of Public Works so that watering will be automatically prevented during or after a rain storm.

Any upgrade or repair of an existing automatic lawn irrigation system shall include the installation of an approved rain sensor if the same is not already installed and in good working condition.

The Division of Public Works shall maintain a list, available to the Public, of approved rain sensors.

§177-14 Violations and Penalties.

Any person violating this bylaw shall be subject to a warning for the first offense and thereafter shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100 for each subsequent violation, which shall inure to the Town for such uses as the Board of Selectmen may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the provisions of the Massachusetts General Laws. For purposes of non-criminal disposition, the enforcing person(s) shall be any police officer of the Town. Each day of violation shall constitute a separate offense.

§177-15 Severability

The invalidity of any portion or provision of the Bylaw shall not invalidate any other portion or provision thereof.

Chapter 178

WETLANDS PROTECTION

[HISTORY: Adopted by the Town of North Andover December 10, 1987 Special Town Meeting, Article 19. Amended in its entirety Annual Town Meeting May 7, 1991. Amendments noted where applicable.] [Amended in its entirety Annual Town Meeting May 12, 1998, Article 39 – Approved by Attorney General October 20, 1998 with the exception of Section 178.11] [2006 Annual Town Meeting June 6, 2006, Article 42, Amend Section 9-Rules and Regulations-Approved by Attorney General October 16, 2006]

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§178.1 Purpose.

The purpose of this Bylaw is to preserve and protect the wetland resource areas (as specified in Section 178.2) of the Town of North Andover by regulation of, and control of, activities (as specified in Section 178.2) deemed by the North Andover Conservation Commission (the "Commission") to have significant or cumulatively detrimental effect upon the following interests and values, including: public or private water supply; groundwater; the prevention and control of flooding, erosion, sedimentation, storm damage, and/or pollution; protection of fisheries, wildlife, wildlife habitat and recreation.

§178.2 Jurisdiction.

Except as permitted in writing by the Commission, or as provided in this Bylaw, no person shall engage in the following activities ("activities"): removal, filling, dredging, discharging into, building upon, or otherwise altering or degrading the wetland resource areas described in the following sentence. The Town's wetland resource areas consist of:

- 1) any isolated vegetated wetland,
- 2) any ephemeral pool

- 3) any vegetated wetland bordering on any creek, river, stream, pond or lake,
- 4) any bank, beach, marsh, wet meadow, bog, or swamp,
- 5) any land under any creek, river, stream, pond or lake,
- 6) any 100-foot buffer zone of wetland areas 1-5 listed above,
- 7) any land subject to storm flowage, or flooding by groundwater or surface water,
- 8) and the 200-foot riverfront area.

The following waterbodies and contiguous 200-foot zones on either side of the waterbody in North Andover have been identified by the Commission as riverfront areas: Mosquito Brook, Rocky Brook, Boston Brook, Cochichewick Brook, Merrimack River and Shawsheen River (See Figure 1-3 – North Andover Riverfront Area Maps).

The wetland resource areas listed in 1-8 above are protected in addition to the wetland resource areas protected under the Massachusetts Wetlands Protection Act M.G.L. Chapter 131, Section 40 (“the Act”) and its accompanying regulations 310 CMR 10.00.

The Commission shall not grant such permission without receiving written notice of the intention to conduct such activity, and without issuing written permission to do so all in compliance with the provisions of this Bylaw.

§178.3 Exemptions.

This Bylaw shall not apply to the following activities:

1. Emergency projects as defined in the Commission's regulations (Section II); or
2. Maintenance, repair or replacement, without substantial change or enlargement, of existing and lawfully located structures or facilities used in the service of the public and used-to provide electric, gas, water, telephone, or other telecommunication services to the public; or
3. Normal maintenance of land in agricultural use, as defined in the Commission's regulations (Section II); or
4. Maintenance and repair of existing public ways.

§178.4 Applications to perform work and information required.

All applications to perform activities in the Town's resource areas shall be either in the form of a Request for Determination or a Notice of Intent, or both. Such applications shall contain data and plans as specified in the Commission's regulations, and shall be submitted in complete written form to the Commission as required by this Bylaw, regulations, and application checklist (Appendix A of Regulations). The date which serves to commence the Commission's deliberation period is the date of receipt of the application at its offices, during regular office hours. The Town Conservation Administrator shall be granted the power to make determinations of completeness for applications submitted to the Commission and reject, within two (2) business days, those applications that do not meet the minimum submittal requirements of this Bylaw, regulations, and application checklist. In order to provide sufficient review time the Commission may continue a public hearing or public meeting if new information is submitted by the applicant, or applicant's agent, less than seven (7) business days before the scheduled public hearing or public meeting.

The applicable forms may be obtained from the Commission and must be signed by the applicant or applicant's agent where required. The Commission may require further information by Regulation, guideline, or as otherwise deemed necessary by the Commission. In order to comply with the provisions of this Bylaw, each application must be complete as filed, and must comply with the rules set forth herein and Commission regulations. No such application shall be accepted as complete before all permits, variances, and approvals required by the Bylaws of the Town with respect to the proposed activity, at the time of such Notice, have been applied for or obtained. Such Application shall also include any information submitted in connection with such permits, variances, and approvals that is necessary to describe the effect of the proposed activity on the resource areas.

§178.5 Hearings.

A) Combination with State Law Hearing:

The said Commission, in its discretion, may hear any oral presentation under this Bylaw at the same public hearing required to be held under the provisions of chapter 131, section 40, of the Massachusetts General Laws. Notice of the time and place of such hearing(s) shall be given as required below.

B) Notice: Notice of the time and place of the hearing shall be given at the applicant's expense, not less than seven (7) calendar days prior to the public hearing, by publication in a newspaper of general circulation in North Andover, and by mailing a copy of such notice to all land owners within 300 feet of the land on which the work is proposed. All publications and notices shall contain the name of the applicant, a description of the area where the activity is proposed by street-address, if any, or other adequate identification of the location of the area or premises which is the subject of the notice, the date,

time and place of the public hearing, the subject matter of the hearing, and the nature of the action or relief requested, if any. Public notice requirements for continued public hearings under this Bylaw shall be the same as the notification requirements set forth in 310 CMR 10.05(5)(b)3.

- B) Proof: The applicant shall have the burden of proving by a preponderance of credible evidence that the activity proposed in the Notice of Intent will not cause adverse impacts to any of the interests and values sought to be protected by this Bylaw. Failure to provide to the Commission adequate evidence for it to determine that the proposed activity does not cause adverse impacts shall be sufficient cause for the Commission to deny permission or to grant such permission with such conditions as it deems reasonable, necessary or desirable to carry out the purposes of this Bylaw; or to postpone or continue the hearing to another date certain to enable the applicant and others to present additional evidence, upon such terms and conditions as seem to the Commission to be reasonable.

Due consideration shall be given to possible effects of the proposal on all interests and values to be protected under this Bylaw and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

- D) Continuances:

The Commission may continue a public hearing or public meeting in the following situations:

1. With the consent of the applicant, to an agreed-upon date which shall be announced at the hearing; or
2. Without the consent of the applicant, to a specific date for the reasons stated at the hearing, including but not limited to receipt of additional information from the applicant or others.

- E) Investigations:

The Commission, its agents, officers and employees, may enter upon privately owned land for the purpose of carrying out its duties under this Bylaw and may make or cause to be made such examination or survey as deemed necessary.

§178.6 Orders And Decisions.

- A) All Orders and Decisions:

If the Commission determines that the proposed activity does not require the imposition of conditions to preserve and protect the interests of this Bylaw, the applicant shall be so notified in writing.

If, after the hearing, the Commission determines that the proposed activity is significant to one or more interests and values of this Bylaw, the Commission may vote to issue written Orders of Conditions within 21 days of the close of the public hearing. The Commission may impose such conditions, safeguards and limitations on time and use upon such activity as it deems necessary to protect those interests.

The Commission may prohibit such activity altogether, in the event that it finds that the interests and values of this Bylaw can not be preserved and protected by the imposition of such conditions, safeguards or limitations.

B) Security to Assure Performance:

The Commission may, as a part of its Order of Conditions, require, in addition to any security required by any other Town or State Board, Commission, agency or officer, that the performance and observance of the conditions, safeguards and limitations imposed under this Bylaw on the applicant and owner be secured by one, or both, of the methods described in the following clauses:

1. Deposit:

By the deposit of money, sufficient to complete the work as proposed, to secure performance of the conditions and observance of the safeguards of such Order of Conditions. Such security, if filed or deposited, shall be approved as to form and manner of execution by Town Counsel or the Town Treasurer.

2. Land Restrictions(s):

By a conservation restriction, easement, or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

C) Duration of Orders:

All Orders of Conditions shall expire three (3) years after the date of issuance. An Order of Conditions may be extended for one year upon the request of the applicant. The request for an extension of an Order of

Conditions shall be made to the Commission at least 30 days prior to expiration of the Order of Conditions. The Commission may grant only two (2) extensions for an individual Order of Conditions.

No activity governed by an Order of Conditions shall be performed unless and until all permits, approvals and variances required by the Bylaws of the Town shall have been obtained, such Order of Conditions or notification shall have been recorded or registered at the Essex North District Registry of Deeds or in the North Essex District of the Land Court Department, and all applicable appeal periods have expired. The Commission shall have the right to record or register its Order of Conditions with said Registry or Registry District. In the event that an Order of Conditions issued pursuant to this Bylaw is identical to a final Order of Conditions issued pursuant to the provisions of MGL Chapter 131, Section 40, only one such order need be recorded or registered.

D) Modifications, Amendments, Revocations:

The Commission shall have the power (on its own motion or upon the petition of the applicant, or any person interested) to modify, amend, or revoke an Order of Conditions. In revoking an Order of Conditions the Commission shall officially notify the interested parties through certified mail and hold a public hearing within 21 days of the notification date. In the case of an amendment to an Order of Conditions, the Commission shall have the discretion to decide if a public hearing is warranted. This decision shall be based on the potential impact of proposed work and its effect on the ability of the identified wetland resource areas to provide those interests as defined under the Act and Bylaw. No public hearing is required for a modification to an Order of Conditions. Written notification to the applicant by certified mail is required in all cases where the Commission initiates a modification, amendment or revocation of an Order Of Conditions.

§178.7 Certificates Of Compliance.

The Commission shall, upon receiving a written request and weather permitting, inspect the resource areas where the activity governed by an Order of Conditions was carried out and issue a Certificate of Compliance (or Partial

Certificate of Compliance) to the owner of the property, applicant, or applicant's representative, in a form suitable for recording or registering, if it shall determine that all of the activity or activities, or portions thereof, limited thereby have been completed in accord with said order.

§178.8 Responsibility For Compliance.

After the recording of a Notice of Violation or Order , any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw or in violation of any order issued under the Bylaw shall forthwith comply with any such Order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless such action is commenced within three years following the recording of the deed or the date of the death by which such real estate was acquired by such person.

§178.9 Rules And Regulations.

The Commission shall be empowered to establish Rules and Regulations to govern its affairs, including but not limited to fees, definitions, use of consultants, security to assure performance, performance standards for work in wetland resource areas, **procedures governing small projects**, and such other information which it deems necessary to discharge its responsibilities. After due notice and public hearing, the Commission may promulgate such rules and regulations to effectuate the purposes of this Bylaw, by a majority vote of the duly appointed members.

Failure by the Commission to promulgate such rules and regulations; or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw. **[Underlined Text Added – June 2006 Annual Town Meeting-Article 42-Pending AG Approval]**

§179.10 Enforcement, Investigations & Violations

In accord with the provisions of M.G.L. Chapter 40, Sections 21D and 31 as well as every other authority and power that may have been or may hereafter be conferred upon it, the Town may enforce the provisions of this Bylaw, restrain violations thereof and seek injunctions and judgments to secure compliance with its Orders of Conditions. Without limiting the generality of the foregoing:

- A) Any person who violates any provision of this Bylaw or of any condition or a permit issue pursuant to it may be punished by a fine pursuant to Massachusetts General Laws, Chapter 40, section 21. Each day or portion

thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This Bylaw may be enforced pursuant to Massachusetts General Laws Chapter 40, section 21D, by a Town police officer, other persons having police powers, Conservation Commissioners or the Conservation Administrator.

In accordance with Ch. 40 S. 21D, violators shall, at the discretion of the enforcement authorities, be charged a penalty. The penalties for violations of this Bylaw or regulations promulgated hereunder may be assessed as follows:

<u>Violation</u>	<u>Violation/Day</u>
Alteration of any wetland resource area identified in Section 178.2 of this Bylaw:	\$ 100
Violation of any Order of Conditions:	\$ 100
Depositing any refuse, debris, yard waste or construction material in a wetland or water body:	\$ 100
Alteration of any stream or water body:	\$ 100
Any violation of any section of this Bylaw that occurs in the Lake Cochichewick Watershed:	\$ 100

- B) In the event of a violation of this Bylaw or of any order issued thereunder, the Commission or its agents may issue a stop work order to the owner, the applicant or applicant's agent by certified mail, return receipt requested, or by posting the same in a conspicuous location on said site. Any person who shall violate the provisions of a stop work order shall be deemed in violation of the Bylaw; but the failure of the Commission to issue a stop work order for any reason shall not prevent the Town from pursuing any other legal remedy at law or in equity to restrain violations of this Bylaw or promulgated regulations and to secure compliance with its Orders.
- C) The Town shall be the beneficiary of all fines imposed on account of the violation of this Bylaw or promulgated regulations in order to defray the expense of enforcing the same.

- D) Upon request of the Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this Bylaw or promulgated regulations and permits issued pursuant to it.
- E) Upon recommendation of the Commission, the Board of Selectmen may employ Special Counsel to assist the Commission in carrying out the legal aspects, duties and requirements of this Bylaw and promulgated regulations.

§178.11 Consultant Services Account. [Section 178.11 Disapproved by Attorney General October 20, 1998] All remaining provisions were approved.

§178.12 Captions And Severability.

The captions used herein are for convenience only and are expressly intended to have no legal or binding significance. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions or decisions which have previo